

THE MADRAS LEGISLATIVE COUNCIL

21 DEC 1955

STATE LEGISLATURE, M.P.

Wednesday, the 6th April 1955.

The House met in the Council Chamber, Fort St. George, at half-past two of the clock, Mr. Chairman (THE HON. DR. P. V. CHERIAN) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Employment of Gurkas as watchmen in Government offices

* 278 Q.—SRI M. ETHIRAJALU : Will the Hon. the Chief Minister be pleased to state the number of Gurkas who are now employed as watchmen in the Government offices in the Madras State?

THE HON. SRI M. BHAKTAVATSALAM (on behalf of the Hon. the Chief Minister) :—“ One hundred and ninety-nine.”

SRI M. ETHIRAJALU :—“ கூர்க்காக்களுக்கு பாஷை தெரியவில்லை. மேலும் நமது ராஜ்யத்தில் வேலையில்லாத திண்டாட்டத்தை போக்க இந்த ராஜ்யத்தில் இருக்கக்கூடியவர்களை நியமிக்க முடியுமா என்று கேட்கிறேன் ? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ கூர்க்காக்களை நியமிக்காவிட்டால் வேலையில்லாத்திண்டாட்டத்தை போக்கி விடமுடியாது. சரிவர பாதுகாப்பதற்கு அவர்கள் உபயோகப்படுகிறார்கள். மேலும் அவர்களுக்கு மொழி தெரியாததும் ஒரு அனுகூலமாக கருதப்படுகிறது.”

Rural Police stations in the State not connected by road.

* 279 Q.—SRI V. V. RAMASWAMI : Will the Hon. the Chief Minister be pleased to state—

(a) the total number of rural Police stations in the State which are not connected by road; and

(b) whether there is any proposal before the Government to give telephone connections to all rural Police stations and to provide them with jeep cars?

THE HON. SRI M. BHAKTAVATSALAM (on behalf of the Hon. the Chief Minister) :—“ (a) Six.

“ (b) Provision of telephone at all Police stations wherever telephone facilities are available, but have not been availed of so far, will be considered by Government. No distinction has been made between rural and town stations but telephone facilities are not likely to be available at rural places.

There is no proposal to provide jeeps for rural Police stations.”

[6th April 1955]

SRI V. V. RAMASWAMI :—“ரோடு வசதியில்லாத கிராமங்களில் இருக்கின்ற இந்த போலீஸ் ஸ்டேஷன்களுக்கு உடனுக்குடன் அதிகாரிகள் போக்குவரத்து வைத்துக்கொள்வதற்கும், மற்ற விஷயங்களைத் தெரிவித்துக் கொள்வதற்கும் இங்கு டெலிபோன் வசதியும், ஜீப்கார் வசதியும் வேண்டியிருப்பதால், சீக்கிரம் அவைகளை வசதி செய்து கொடுக்க நடவடிக்கை எடுக்கப்படுமா?”

THE HON. SRI M. BHAKTAVATSALAM :—“டெலிபோன் வசதிகளைச் செய்து கொடுப்பதோடு ரோடுகளையே போட்டுவிடலாமென்று அரசாங்கத்தால் கருதப்படுகிறது.”

SRI M. ETHIRAJULU :—“இப்போது நம் அரசாங்கத்திற்கு இந்தக் கிராமங்களுக்கு ரோடு வசதிகளைச் செய்துகொடுப்பதோடு, இந்த கிராமங்களுக்கு ஒரு அவுட்போஸ்ட் போலீஸ் ஸ்டேஷனையும் ஏற்படுத்த முடியுமா என்று கேட்கிறேன்?”

THE HON. SRI M. BHAKTAVATSALAM :—“போலீஸ் அவுட்போஸ்ட் ஏற்படுத்துவது அபிவிருத்தித் திட்டத்திலே ஒன்றாக கருதப்படவில்லை.”

Absorption of Andhra officers working in Madras State in the vacancies arising in the Andhra State

* 280 Q.—**SRI ALEXANDER GNANAMUTTU** : Will the Hon. the Chief Minister be pleased to state—

(a) whether it is a fact that Andhra officers working in Madras State are not absorbed in the vacancies that arise in the Andhra State; and

(b) whether it is a fact that Tamil officers are, on the other hand, reverted to the Madras State?

THE HON. SRI M. BHAKTAVATSALAM (on behalf of the Hon. the Chief Minister) :—“(a) As a rule, all Andhras have been permanently allotted to the Andhra State. A few Andhra officers have been retained in this State temporarily till the Andhra State is in a position to absorb them as corresponding or other suitable posts are not available in that State now. These officers are being absorbed by the Government of Andhra as and when corresponding or other suitable posts become available in that State.

(b) Non-Andhra officers, including Tamilian officers, were taken to the Andhra State as ‘transferred officers’ only to the extent that was considered unavoidable by the Special Officer for Andhra Affairs and his Committee. Though these officers are required to serve the Andhra State for a period of two years, it is open to the Government of Andhra to return them to this State within the two-year period after giving three months’ notice to this Government and to the officers concerned. In cases where they consider that the services of these officers are no longer required, the Government of Andhra are returning them to this State after giving three months’ notice to this Government and to the officers concerned.”

6th April 1955]

SRI ALEXANDER GNANAMUTTU :—" Sir, is it not a fact that there are so many Andhra officers in the Educational Department who are not absorbed in the Andhra State even though there are suitable vacancies? "

THE HON. SRI M. BHAKTAVATSALAM :—" I would like to have notice, Sir."

SRI MOHAMED RAZA KHAN :—" May I know, Sir, whether there are Tamilian officers working there in the Andhra State and who have been absorbed in vacancies in our State? "

THE HON. SRI M. BHAKTAVATSALAM :—" Yes, Sir. There have been transferred Tamil officers working in the Andhra State. Some of them are being returned to this State."

SRI V. V. RAMASWAMI :—" ஆந்திர நாட்டிலிருந்து சென்னைக்கு வரக்கூடிய உயர்தர அதிகாரிகள் யார்? அவர்கள் எவ்வளவு நாட்களில் இந்தத் தமிழ்நாட்டுக்கு வரக்கூடும் என்பதைத் தெரிவிக்க முடியுமா? "

THE HON. SRI M. BHAKTAVATSALAM :—" இந்த விவரங்களுக்கு எல்லாம் நோட்டீஸ் வேண்டும்."

DR. V. K. JOHN :—" There are so many Tamil officers who know Telugu. If they know Telugu why should they come back? "

THE HON. SRI M. BHAKTAVATSALAM :—" Even if Tamil officers know Telugu, even if some of them claim Telugu as their mother tongue, Andhras do not admit them as Andhras."

DR. V. K. JOHN :—" There are Andhra officers in Madras who know Tamil. Why should they be sent back to Andhra? Should they not be here? "

THE HON. SRI M. BHAKTAVATSALAM :—" Sir, that depends on the merits of each case. They are not invariably sent out."

SRI MOHAMED RAZA KHAN :—" How are these officers classified as Andhra or Tamil officers? Is it according to the place of birth or according to the language which they know? "

THE HON. SRI M. BHAKTAVATSALAM :—" Officers belonging to this State are considered to be non-Andhra Officers."

SRI A. M. ALLAPICHAJ :—" Is there anything in the Constitution or in any rule that Andhra officers would not be appointed by our State or people belonging to Tamilnad should not be appointed by the Andhra State? "

THE HON. SRI M. BHAKTAVATSALAM :—" Sir, there is no such provision in the Constitution but it is for the States concerned to take their own decision."

[6th April 1955]

Laying of new pipe lines from Red Hills to Avadi in connection with the Avadi Congress Session

* 281 Q.—SRI V. GURUNANDAN ROW : Will the Hon. the Minister for Health be pleased to state—

(a) whether the Government have given any special grant to the Corporation or any other Local Authority or Municipality for laying any new pipe lines from Red Hills to Avadi for the supply of water in connection with the Avadi Session of the Indian National Congress;

(b) the amount, if any, spent by the Government in this connection;

(c) whether the Indian National Congress paid any amount towards the cost of laying and maintaining such pipe lines incurred by the Government or the Local Authority; and

(d) whether the Government will be pleased to place on the table of the House a copy of the agreement, if any, entered into between the Local Authority or Government and the Indian National Congress for the supply of water in connection with the Congress Session at Avadi?

THE HON. SRI A. B. SHETTY :—“(a) No, Sir.

“(b) Does not arise.

“(c) The Congress authorities made their own arrangements for supply of water to Avadi. The Government loaned pipes and pump sets to the Congress on hire at the prescribed rates.

“(d) A copy^a of the Government Order issued regarding the supply of water is placed on the table of the House.”

SRI K. BALASUBRAMANYA AYYAR :—“Will the Government issue a general statement that they had done nothing to promote the Indian National Congress Session held at Avadi?”

SRI V. CHAKKARAI CHETTY :—“Would it be advisable for the Government to do it now . . .” (Interruption.)

Because people will ask why Government should come forward and make a declaration like that just at this time. They ought to have done it at the very beginning.”

MR. CHAIRMAN :—“Is there no reply to the question?”

THE HON. SRI C. SUBRAMANIAM :—“The hon. Member has answered the question himself.”

6th April 1955]

SRI MOHAMED RAZA KHAN :—“ Why should the Madras Government be denied the name that they have directly or indirectly helped the Congress and that was why it was such a grand success? ”

THE HON. SRI A. B. SHETTY :—“ The success of the Avadi Session of the Congress was a great compliment to the Tamil Nadu Congress Committee.”

Extraction of bauxite in Salem district

* 282 Q.—SRI V. V. RAMASWAMI: Will the Hon. the Minister for Agriculture be pleased to state—

(a) whether bauxite is available in Salem district and if so, where;

(b) whether any company or individual is at present removing bauxite from the above areas;

(c) if so, how much bauxite is being removed; and

(d) whether the Government propose to undertake the extraction of bauxite themselves?

THE HON. SRI M. BHAKTAVATSALAM :—“ (a) Yes, Sir; in the Shevaroy Hills, Yercaud.

“ (b) Yes, Sir, the Shevaroy Bauxite Products Company, Limited, who hold a mining lease.

“ (c) On an average, a quantity of about 1,100 tons of bauxite is being extracted annually.

“ (d) No, Sir.”

Cultivation under food crops and under commercial crops in the State

* 283 Q.—SRI V. V. RAMASWAMI: Will the Hon. the Minister for Agriculture be pleased to state—

(a) the total acreage of cultivation in the State under food crops and under commercial crops;

(b) the total quantity of manure, chemical and green at present in demand for agricultural purposes in the State;

(c) whether there has been any deficit in the supply of manure and, if so, how it is proposed to make up such deficit; and

(d) whether there is any scheme to make the State self-sufficient in food and in supply of cotton?

THE HON. SRI M. BHAKTAVATSALAM :—“ A statement a is placed on the table.”

[6th April 1955]

Applications for temporary exemption from untrained teachers in the Pudukkottai area

* 284 Q.—SRI G. KRISHNAMOORTHY: Will the Hon. the Minister for Finance and Education be pleased to state with reference to the answer to the supplementary questions to starred question No. 88 answered on 22nd December 1954—

(a) whether any applications for temporary exemption for the school-year 1954-55 were received from untrained teachers in the Pudukkottai area; and

(b) if so, whether the exemption asked for has been granted?

THE HON. SRI C. SUBRAMANIAM:—“(a) No, Sir.

“(b) Does not arise.”

SRI G. KRISHNAMOORTHY:—“As I have information that an application for temporary exemption has been submitted by a teacher who has not been paid salary throughout the school-year, will the Government kindly see that he is given exemption?”

THE HON. SRI C. SUBRAMANIAM:—“The hon. Member might pass on the information to me and I shall look into it.”

SRI G. KRISHNAMOORTHY:—“I am referring to the application of one untrained teacher working in a Secondary School in Ramachandrapuram who has been working throughout this year without receiving salary. Will the Government kindly look into it?”

THE HON. SRI C. SUBRAMANIAM:—“These individual cases need not be referred to in the House in the form of a question. Individual representation can be made to the Minister.”

MR. CHAIRMAN:—“That is not a supplementary question.”

Modified scheme of adult education in Community Project and National Extension Service areas.

* 285 Q.—SRI E. H. PARAMESWARAN: Will the Hon. the Minister for Finance and Education be pleased to state—

(a) the financial implications of the modified scheme of adult education in Community Project and National Extension Service areas; and

(b) the amount of grant expected from the Central Government for the above purpose?

THE HON. SRI C. SUBRAMANIAM:—“(a) The estimated expenditure on the scheme in a full year is about Rs. 7½ lakhs.”

6th April 1955]

“(b) A 50 per cent grant towards the expenditure on the scheme debitabie to the Education Budget in each year is expected from the Government of India.”

Resolutions submitted by the Tenth Conference of the Tamil Nad Village Officers' Association held at Madras

* 286 Q.—SRI P. P. UMMER KOYA (on behalf of Sri T. Purushotham) : Will the Hon. the Minister for Land Revenue be pleased to lay on the table of the House a copy of the resolutions submitted to Government by the Tenth Conference of the Tamil Nad Village Officers' Association held at Madras in 1953, showing the orders passed or action taken by Government on each of the resolution?

THE HON. SRI M. A. MANICKAVELU :—“ A statement^a is placed on the table of the House.”

SRI T. PURUSHOTHAM :—“ With reference to Resolutions Nos. 13 and 14 contained in the Statement placed on the table of the House, it is stated that the principle has been accepted by the Government but the question has been deferred for the present. May I know why it has been deferred? ”

THE HON. SRI M. A. MANICKAVELU :—“ The hon. Member ought to have known the implications of it by now. We have to find finances and that too a big sum for implementation. That is the only reason why it has been deferred.”

SRI T. PURUSHOTHAM :—“ May I know whether the Government have considered, in disposing of these cases, the recommendations of the Subrahmanyam Committee with regard to the hereditary system of village officers, etc., and if so, what the decision of the Government is in respect of these matters? ”

THE HON. SRI M. A. MANICKAVELU :—“ That is a big question which will probably come under the general land revenue reform.”

SRI T. PURUSHOTHAM :—“ With reference to the answer just now given by the Hon. Minister, may I know whether the Government would consider the appointment of a committee of officials and non-officials to consider the hereditary system and other resolutions passed at the Conference of Village Officers, on which action has not been taken so far? ”

THE HON. SRI M. A. MANICKAVELU :—“ I submit that no committee is necessary. What is wanted is more money. Therefore, let the hon. Member suggest some way of getting more money.”

[6th April 1955]

SRI T. PURUSHOTHAM :—“ May I know whether there is any objection to the village officers being entrusted with the execution of village works under the Local Development Works Scheme? ”

THE HON. SRI M. A. MANICKAVELU :—“ I do not know how it arises. A separate question may be put.”

Working of the shutters in the Karikkalavakkam taluk

* 287 Q.—**SRI T. PURUSHOTHAM** : Will the Hon. the Minister for Public Works be pleased to state—

(a) whether a Member of the Board of Revenue inspected the Karikkalavakkam tank, Trivellore taluk, Chingleput district, recently and made a report to the Government about the working of the shutters in the said tank on the southern side;

(b) if so, whether the Government will be pleased to place a copy of the report on the table of the House; and

(c) whether the Government have taken a final decision in the matter and if so, the orders passed thereon?

THE HON. SRI R. SHANMUGA RAJESWARA SETHUPATHI :—“ (a) Yes.

“ (b) The Government consider that no useful purpose will be served by placing a copy of the report on the table of the House.

“ (c) Yes. Orders have been issued to proceed with the work of converting the existing calingula into a weir and providing screw gearing shutters to the scour vents. Instructions have also been issued to the Chief Engineer to lower the sill level of three of the vents to plus 89.0 feet and keep the existing sill level of 92.45 feet for the other three vents.”

UNSTARRED QUESTIONS

Manufacture of articles in the Madras Penitentiary, Central Jail, etc.

* 27 Q.—**SRI T. M. DAIVASIKHAMANI ACHARIAR** : Will the Hon. the Minister for Finance and Education be pleased to state—

(a) the articles manufactured in the Madras Penitentiary, Central Jail and Certified School, Chingleput and the Central Jails at Cuddalore, Tanjore, Tiruchirappalli, Vellore and Salem;

(b) whether they are manufactured with the aid of prison labour or outside labour or both;

(c) whether they are made available to the public for sale; if so, how and through what agencies;

(d) why these articles of jail manufacture are not exhibited in public museums or exhibitions;

6th April 1955]

(e) whether articles manufactured with prison labour are sold at a cost less than the market price and if not, why not; and

(f) the aggregate cost or turnover of jail-made goods of all jails in the State during the year 1953-54?

4.—(a) to (f) A statement^a furnishing the information is placed on the table of the House.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—POINT OF INFORMATION *RE.* PRESS STATEMENTS ON THE UTILIZATION OF THE PALAR RIVER WATERS.

SRI MOHAMED RAZA KHAN :—“ Yesterday the Hon. Minister for Public Works while replying to a number of supplementary questions regarding the dispute between the Mysore and Madras States over the sharing of Palar waters was reported to have said :

“ The Madras Government are considering a proposal to request the Government of India to constitute a Council under Article 263 of the Constitution of India to make enquiries into the matter and suggest suitable remedies ”

It is also reported in the Press that enquiries at the Secretariat show that the Madras Government have sent a communication to the Government of India suggesting the constitution of such a Council under Article 263 of the Constitution. The Hon. Mr. Manickavelu is also reported to have told newspaper reporters that a reply from the Government of India was being awaited which implies that the communication has already been sent from here. Sir, two contradictory statements of Hon. Ministers appearing in the Press on the same day will not give good impression as far as the Government are concerned. I want a clarification in respect of this matter.”

THE HON. SRI R. SHANMUGA RAJESWARA SETHUPATHI :—“ At that time I was not aware that a communication had been sent. Afterwards I learnt that a note to that effect has been circulated amongst us. That is why I said that it was proposed to send a communication to the Government of India. In fact my Colleague was telling me that it had been sent but I told him that I would verify it. So, there is no contradiction in the matter.”

SRI MOHAMED RAZA KHAN :—“ In that case an explanation is due from the Hon. Minister for Revenue because he did not correct the Hon. Minister for Public Works when he said that a communication was proposed to be sent. At that time he ought to have corrected him by saying that a communication had already been sent.”

THE HON. SRI R. SHANMUGA RAJESWARA SETHUPATHI :—“ In fact he was telling me that a communication had been sent but I wanted to verify it.”

[6th April 1955]

III.—ANNOUNCEMENT BY THE HON. CHAIRMAN.

NOMINATION OF SRI P. P. UMMER KOYA TO CERTAIN COMMITTEES IN PLACE OF SRI T. PURUSHOTHAM RESIGNED.

MR. CHAIRMAN :—“ I have to inform the House that Sri T. Purushotham has resigned his seat in the Business Advisory Committee and the Committee on Government Assurances and that in his place I have nominated Sri P. P. Ummer Koya, as a member of the Business Advisory Committee and the Committee on Government Assurances.”

IV. PRIVILEGE MOTION—(WITHDRAWN).

MR. CHAIRMAN :—“ The House will remember that on 24th March 1955, I made a statement that I will in due course give my decision on the motion of privilege moved by Sri T. Purushotham.

“ I have given very careful consideration to this Motion.

“ I want, in the first place, to impress upon the House the importance of perfect equality between the two Houses and also the fact that in every respect the Houses are totally independent one of the other.

“ Sri T. Purushotham's resolution refers to a statement made by the Hon. the Presiding Officer of the other House on 18th March 1955 in which he mentioned the number and hours of sittings of this House and that of the Assembly.

“ Though this statement cannot be considered to be a breach of privilege, the inference that the Chairman has more power than he is entitled to can be drawn. In fact, a well-known Madras daily newspaper, in its edition of the 19th March 1955, stated in its report of the proceedings of the Legislative Assembly of the 18th March :

‘ The Chairman had, however, as much voice as the speaker ’

So, Sri Purushotham cannot be said to be wrong in his interpretation of the statement of the Speaker but as I am very anxious to maintain an atmosphere of cordiality and mutual understanding between the two Houses and their presiding officers, I have decided not to take any further action beyond making this statement. In the circumstances, I request Sri Purushotham to withdraw his motion.”

SRI T. PURUSHOTHAM :—“ Sir, I bow to your ruling and withdraw the Motion. May I be permitted to add that my only object in moving the motion was that the dignity of this House and the Chair should not in any manner be detracted.”

2-50
p.m.

SRI MOHAMED RAZA KHAN :—“ Mr. Chairman, Sir, the Chair can also make a similar statement here on the floor of this House as to the number of days and the number of hours we have sat. We are also anxious to sit for longer hours, but there are certain matters over which we have no right to discuss, particularly Demands for Grants. Such a statement will also help as far as the public are concerned.”

6th April 1955]

MR. CHAIRMAN :—“ I do not think such a statement is necessary.”

SRI T. PURUSHOTHAM :—“ Sir, may I bring to your notice that a press communique was issued yesterday with regard to the programme of the Government for implementing the Second Five-Year Plan and it has appeared in one of the papers this morning? It is usual to place such press releases on the table of the House when the House is sitting. It would be a happy convention if such press communiques are placed on the Table of the House when the Houses of the Legislature are sitting. If not, the communique will appear in the Gazette and we will come to know of it.”

THE HON. SRI M. BHAKTAVATSALAM :—“ Yes, Sir. The Government will consider the suggestion and they will arrange to place it before the House.”

MR. CHAIRMAN :—“ Now, we shall proceed to the business before the House.”

V.—GOVERNMENT BILLS.

- (1) THE MADRAS GENERAL SALES TAX AND THE MADRAS TOBACCO (TAXATION OF SALES AND REGISTRATION) (AMENDMENT) BILL, 1955 (L.A. BILL NO. 9 OF 1955).

* THE HON. SRI M. A. MANICKAVELU :—“ Sir, I move—
‘ That the Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955), as passed by the Assembly, be taken into consideration.’ ”

This taxation on cigarettes and certain varieties of cigars and cheroots is not new. We have already passed an Act called the Tobacco (Taxation of Sales and Registration) Act in the year 1953. Hon. Members are aware of the circumstances under which that Act was passed. Previous to the passing of that Act, the Central Government were levying an excise duty and they were paying a contribution from that, which we were having. When that was in operation, we were prevented from taxing these articles. The Central Government said that we were at liberty to have our own taxation and stopped the contribution they were paying. That was why the Act of 1953 was passed. But under that Act certain categories of cigarettes, cigars and cheroots were not taxed. Cigarettes which were sold at less than three pies were not taxed, because that was considered to be the poor man's luxury or vice, whatever it may be. Now, it is proposed to tax that variety of cigarettes also, that is, cigarettes which are priced low. Hon. Members need not think that by taxing that variety of cigarettes, the price of cigarettes will go up. It will not go up. It will be sold only at the old rate, viz., at three pies, and therefore this tax will not fall on the consumer. It has been so arranged that the manufacturers of that variety of cigarettes will adjust it in their margin of profit and therefore, in effect there

THE MADRAS GENERAL SALES TAX AND THE
MADRAS TOBACCO (TAXATION OF SALES
AND REGISTRATION) (AMENDMENT) BILL, 1955
(L.A. BILL NO. 9 OF 1955)

[Sri M. A. Manickavelu] [6th April 1955]

will be no increase in the price of cigarettes. They will be sold at the rate of three pies alone. (Sri Alexander Gnananuttu: 'Sir, may I know who are the manufacturers?') The Imperial Tobacco Company, etc. With regard to cigarettes and cheroots which cost less than 2 annas, it is proposed to tax them under the General Sales Tax Act, but the tax will be only at one point. In the case of raw tobacco, it will be liable to tax only at the point of the first purchase effected in the State of Madras by a dealer and there also the rate is too low. It will be taxed at the rate of six pies for every rupee. I say 'low', because the average number of transactions that an article undergoes before it reaches the consumer is four or five. So half an anna is not a big sum, considering that it is a single point tax. These are the amendments that have been proposed in this Bill. I hope the House will agree to this reasonable measure."

MR. CHAIRMAN :—" Motion moved—

'That the Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955), as passed by the Assembly, be taken into consideration.' "

DR. V. K. JOHN :—" Mr. Chairman, Sir, I am sorry I cannot agree that this is a reasonable measure. I think that this is a most unpopular measure, at the same time, a very oppressive measure. In spite of the promise that the dealer will pay out of his pocket, in practice it will be a burden on the poor man. The poor man cannot escape it. Some method will be adopted to put the burden on the poor man. Sales tax, as I have very often said, is a very regressive measure of taxation. The burden falls on the poor man. It adds to the cost of living. It reduces the purchasing power of the people. Therefore, we must first settle the principles upon which sales tax should be imposed. Somehow or other, from the time this was imposed, we have been trying to collect more and more money out of this taxation and we have amended this Act many times and included many articles almost every year, but nevertheless the collections from the sales tax are going down. There have been diminishing returns from this tax, (Interruption by the Hon. Sri C. Subramaniam.) Of course, we have excluded a few articles this year. I would therefore suggest to the Government that we must first settle the principles on which sales tax should be imposed. If it adds to the cost of living, if it is a burden on the poor man, if it reduces the purchasing power of the public and if ultimately it will result in diminishing returns, then let us fix the principles first.

"I would suggest that there should be no sales tax on articles produced in this State. Thereby we may encourage production in our State and the price of things produced here would be cheaper. Let us evolve some principle. (The Hon. Sri C. Subramaniam :

6th April 1955]

[Dr. V. K. John]

'Sir, can we discriminate like that?') I do not mind imposing sales tax on articles which are not produced here and which are imported. Generally speaking, I am against it, but I am certainly against sales tax being levied on articles produced in this State and particularly on articles which are consumed by the poor man. If a man has to purchase a beggar's bowl, he has to pay some tax upon it. If we want to purchase some rice, tobacco or some article of necessity, we have to pay sales tax. It is this sales tax which is ruining our State and we are bringing in measure after measure in respect of this tax instead of abolishing it altogether. I appeal to the Government to lay down the principles on which we will have a progressive form of taxation. Let us take income-tax. A man getting an annual income of Rs. 4,200 has to pay income-tax and even there for the first Rs. 3,000 there is no tax. Why is it so? It is because it affects the purchasing power of the people. In America the policy is to put more money into the hands of the people so that their purchasing power may be increased. Two dollars is paid to a worker for every hour's work. He gets about Rs. 2,000 a month. He can even purchase a car. There the purchasing power of the people is high, production is high and the income which the Government derive is also high. Here we are doing just the opposite. We are making the cost of living high and we are taking away the purchasing power of the people. The result is, there is the diminishing return and people are impoverished. I ask the Government to consider very seriously the principles on which this regressive form of taxation is imposed.'

3 p.m.

SRI V. CHAKKARAI CHETTY :—“ Mr. Chairman Sir, I am unable to say whether the very fine assurance given by the Hon. Minister will satisfy the people. Sir, it is stated that even Gods smoked. I do not know whether this taxation measure will affect not the Gods in the other world but the Gods in this world and I mean by Gods the people who are accustomed to smoke. The use of tobacco helps in soothing the nerves. I myself smoke and it remains to be seen how it is going to affect my pocket. I do not know whether the people who sell cigars, cheroots, cigarettes, etc., are going to increase the prices of these articles. We are thankful for the assurance given by the Hon. Minister that this tax is not going to be a heavy burden upon the poor people. Anyhow, the hon. Deputy Leader of the Opposition has voiced the principal objection that ‘Sales Tax’ is an oppressive taxation and that this kind of taxation should be abolished. Just at the present time when unemployment is on the increase, we ought not to introduce measures which will touch the pockets of poor people. Although I thank the Hon. Minister for the assurance given, I also endorse the protest lodged by the hon. Deputy Leader of the Opposition that Sales Tax is an irrational measure. The Sales Tax seems to be a gold mine for the Government because

[Sri V. Chakkarai Chetty] [6th April 1955]

they derive a large portion of revenue out of that. If this tax is abolished, the Government itself will topple down and will not be able to continue its work. Therefore, the levy of this tax is enthusiastically upheld by the Government. Although the income derived from the taxation on tobacco is somewhat on the decline, still it is considered an oppressive burden by poorer classes of people who are accustomed to smoke. The people living in northern areas, especially those living in the Andhra area are accustomed to smoke to a greater degree than the people living in our State. But it remains to be seen how far this taxation measure is going to affect the poor people. I have seen some printed representations from merchants of this State dealing in tobacco protesting against this measure and saying that this tax ought not to be imposed and that either it should be withdrawn or that the mischief in the measure must be minimised. I think the Government also must have received a copy of these representations. I have no hesitation in saying that although we may give some kind of general approval, yet we do not do it enthusiastically and except for the sake of Government requiring finances we are not in favour of sales tax at all."

* SRI K. BHASHYAM :—" Mr. Chairman Sir, generally I am against taxation of food articles. But, so far as tobacco is concerned, according to me, it is a luxury article. In fact, every student in the high school, every student studying in a college smokes and spends a good deal of the money of his parents in smoking. Tobacco is not a good article. I do not think therefore there can be any objection to the taxation on tobacco. Hon. Members may think that I am a purist, because I am talking in this fashion. I would like to point out that while necessary food articles require to be exempted, unnecessary food articles need not be exempted. But, we all know, Sir, that this practice of smoking is prevalent among the poor people, that they have taken to the habit of smoking very largely, and that the use of tobacco in some form or other has become such a necessity that it has almost become a food article. It is really difficult to make a reconciliation in this matter. If we really want to reduce the consumption of tobacco and products manufactured out of tobacco like cigarettes, there must be some sort of taxation on tobacco."

SRI ALEXANDER GNANAMUTTU :—" Is this taxation going to prevent students from smoking? "

* SRI K. BHASHYAM :—" I expect so, Sir, and I hope that the teachers who are in charge of the pupils will set an example to them. What I want to point out in this connection, is this. The habit of smoking is prevalent among poor people also and

6th April 1955] [Sri K. Bhashyam]

they find some consolation in smoking, just as they found in drinking. But on this score, people may say that drinking is also a necessary food article and that it ought not to be prohibited. I welcome this tax because it imposes a tax on an unnecessary article and a luxury.

“ I am not able to understand the assurance given by the Hon. Minister that poor people are not going to be affected as a result of this taxation measure. The Hon. Minister who is piloting this Bill has given an assurance that the Company dealing with the manufacture or sale of cigarettes, etc., will not increase their prices. My point is this. I wish to know how the Government are going to see that prices of these articles are not raised. The companies dealing with these products will not give up their profits. There must be some provisions in the Act itself which will have a compulsive force and which will prevent them from increasing the prices. The present management of Messrs. Spencer & Co. may be agreeable to keep the prices of cigarettes, etc., at the present level of prices itself. But what is to happen later on if this agreement is not kept up by the company? This sort of solution to the problem of traders charging higher rates for cigarettes, etc., as a result of passing this measure, is not a dependable solution at all. The agreement that the Government have arrived at cannot be enforced by statute in a Court of law because there are no binding provisions in the main Act itself. Besides, there are numerous small dealers in this State dealing in tobacco and products manufactured out of it and suppose they charge higher prices for them. There are no provisions in the Bill to prevent them from doing that. Therefore, Sir, I do not feel any consolation in the fact that the manufacturers have assured the Government that the prices of cigarette, etc., will not be increased as a result of passing this measure.”

* SRI A. GAJAPATHY NAYAGAR :—“ கனம் மன்றத் தலைவர் அவர்களே, இந்தப் புகையிலை வரியைத் தனிப்பட்ட ஒதாவில் நான் வரவேற்கின்றேன். புகையிலை அதாவது புகை இல்லை இல்லை என்று சொல்லிக்கொண்டு புகையை விட்டுக்கொண்டே சிலர் இருப்பது எனக்கு மனவருத்தமாக இருக்கிறது. சினிமாவுக்குப் போனால் அங்கே ஒரே புகை, வண்டியிலே சென்றாலும் அங்கும் ஒரே புகை, மொட்டைப் பசுக்களெல்லாம் இப்போது பீடி, சிகரெட் பிடிக்க ஆரம்பித்துவிட்டார்கள். அவர்கள் பக்கத்தில் பெரிய மனிதர்களும் உட்கார்ந்துகொண்டு புகை பிடிக்கும் பெரும் கேடான பழக்கம் இன்று வந்துவிட்டது. நம் நாட்டிலே கள்ளைக் குடிக்கக்கூடாது. மற்றும் கஞ்சா அருந்தக் கூடாது என்றெல்லாம் சட்டம்செய்திருக்கிறார்கள். காரணம் அதனால் உடல்நலம் கெட்டுவிடும் என்று சொல்லுகிறார்கள். ஆனால் புகையிலை நஞ்சாக இருக்கிறதே? கள்ளைக் குடித்தாலும் குடிக்கலாம், இந்தப் புகையிலையைக் குடிக்கக்கூடாது என்று நான் சொல்லுகிறேன். ஏன்? கள் என்பது ஒருவித உணவு, ஆனால் புகையிலையோ கொடிய நஞ்சு. இது என்னுடைய சொந்த அபிப்பிராயம். மேலும் இது வீண் செலவு. இன்று ஆண்களும், பெண்களும் புகைப் பிடிக்கக் கற்றுக்கொண்டார்கள். ஒரு நாள் நான் ஓட்டலுக்குப் போயிருந்தேன். அங்கு ஒரு பெண் வந்திருந்தாள். நெருப்பு பெட்டி கொடுங்கள் என்று கேட்டாள். காரணம் அவள் சிகரெட் பிடிக்கிறாளாம்.

[Sri A. Gajapathy Nayagar] [6th April 1955]

அதற்காக என்னிடம் நெருப்புப் பெட்டி இருக்கிறதா என்று கேட்கிறீர். ஏன் சொல்லுகிறேன். இன்று இதெல்லாம் நாகரீகமாகவும், வண் செல்வாகவும் போய்விட்டது.

3-10
p.m.

“ஒருவர் ரூ. 2,500 சம்பளம் வாங்குவார். ஒரு நாளைக்கு 50 சிகரெட் அல்லது 1 டின் சிகரெட் வாங்கி அதற்காக ரூ. 2½ செலவு செய்வார். ஆனால் அவரை தர்மத்திற்காக 2½ அணு கொடு என்றால், அப்படி கொடுக்க மனமே வராது. இப்படி சிகரெட் குடிப்பதால் அவர்களுக்கு தர்மசிந்தனையே அழிந்துவிடுகிறது. மேலும் சிகரெட் குடிக்கத்தான் எண்ணம் போகிறது. நம் நாடு உஷ்ணப்பிரதேசம். மேலும் இது நஞ்சு. ஆகவே இந்த மசோதாவை முழுதும் வரவேற்கிறேன். அதைத் தடுக்கும் முறையில் 25-க்கு மேல் வயது வந்தவர்களைத் தவிர்த்து புகை பிடிக்கலாம் என்று ஒரு சட்டம் கொண்டுவந்தால், அதை நான் முதலில் வரவேற்பேன் என்பதைச் சொல்லிக்கொண்டு, இந்த வரியை நான் ஆதரிக்கிறேன்.”

SRI MOHAMED RAZA KHAN:—“Sir, it is so difficult for me to talk immediately after a member of my party has given full support to this Bill. But he has expressed his individual opinion. As far as the subject matter of the Bill is concerned, it can be a taxation measure as was properly stated by the Hon. Minister for Finance and that the Government want some more money and therefore they feel that they should tax. I quite appreciate it. The issue before us is not whether smoking is good or bad. Nobody could, by any stretch of imagination, take this Bill as a sort of preventive measure. This is not a preventive measure. Instead of paying three pies the people will pay four pies, or instead of spending Rs. 20, they may be spending Rs. 22 or Rs. 23. Therefore, under no circumstances this can be a preventive measure and any amount of argument in support of this Bill is not going to change the circumstances. Situated as we are, discussing the taxation measure, let us not go into the effect, good or bad, of smoking. There may be a better platform where we can also produce thousand and one arguments. I can say with your permission, Sir, that eminent personanities, politicians and statesmen have been the heaviest smokers possible not only in our country but throughout the world. Even the man who has retired last night has been the heaviest smoker possible. I leave it at that.

“At the very outset the Hon. Minister for Revenue himself said that at one stage they thought that tobacco should be exempted from the purview of the tax because it is a poor man's luxury. He now says ‘As we feel that we should have some more money, we want to have this taxation.’ I quite understand and appreciate his point. However, I feel that this is a Bill which ought to have gone before a Select Committee, because it is not so simple as it looks to be. It is not a question whether it is a multi-point sales tax or single-point sales tax. Far from it, if you see the facts of it, it is more than a multi-point sales tax, as far as I could understand it. Incidentally, I may congratulate the Hon. Minister for Finance on his determination and tenacity with

6th April 1955] [Sri Mohamed Raza Khan]

which he got this Bill through in the other House and brought it up here, because I heard, Sir, that there was a demand from outside that the matter should be referred to a Select Committee so that they might have a chance of placing their grievances before the Hon. Ministers for Finance and Revenue. The Government may or may not accept their suggestions. That is a different thing."

THE HON. SRI C. SUBRAMANIAM :—" May I inform the hon. Member that the persons, who are affected by this Bill, not the smokers, but the merchants and producers, are more than satisfied with the provisions of the Bill? "

SRI MOHAMED RAZA KHAN :—" Sir, I have no reason to contradict what the Hon. Minister said. But that is my information from what I gather from the number of memoranda which had been sent to hon. Members of the Legislative Council and the Assembly. We are not here to plead their case. We are not interested in them. The only point of view of the legislators here is whether these cigarette-making and beedi industries which are nothing but cottage industries would be affected by the operation of this tax. That is what I want to submit, Sir. If really the Hon. Minister says that they themselves were satisfied that the industries are not going to be crippled, after all we have no valid objection. My whole point is this. Being a cottage industry in this State, and when it is the desire of the Government that cottage industries should be improved as those industries give a chance for further employment, my only anxiety and the actual consideration is whether the Government can make out a case that the industry by itself will not be affected by this fresh taxation.

" Sir, even in the clauses of this Bill, it is stated that there will be a tax at two points. One is when they purchase tobacco and the other is when they manufacture tobacco either in the form of a cigar or beedi. Therefore, the tax will ordinarily be one anna. But the Hon. Minister had added a proviso. If I understand it correctly, anybody has to pay one-anna. He is paying half-anna on the purchase of the tobacco, but he will be given a rebate at the time, when the cost of manufacture is calculated. Therefore, the point remains, whatever it is, that the tax will come to one anna in the rupee."

THE HON. SRI C. SUBRAMANIAM :—" If a person has paid tax on the purchase of raw tobacco, then he is given rebate to that extent when he pays sales tax on the manufactured tobacco. Therefore, where is the question of paying one anna? He has to pay only half-anna on the manufactured tobacco. That is all."

SRI MOHAMED RAZA KHAN :—" Possibly, I may be wrong. But I want the point to be clarified. He pays half-anna on the purchase of tobacco. I do not know whether excise duty is excluded from it, or it is also included. That is another point. When his

THE MADRAS GENERAL SALES TAX AND THE
MADRAS TOBACCO (TAXATION OF SALES
AND REGISTRATION) (AMENDMENT) BILL, 1955
(L.A. BILL NO. 9 OF 1955)

[Sri Mohamed Raza Khan]

[6th April 1955]

sales come to Rs. 4 or Rs. 5 lakhs, he will get a proportionate rebate for the tax which he has already paid on raw tobacco. I think that is the position."

THE HON. SRI C. SUBRAMANIAM :—" Whatever tax is paid will be given as rebate. It is enough if he pays the balance. Or else, he pays in full and gets a refund of the amount of tax already paid."

SRI MOHAMED RAZA KHAN :—" The statement of the Hon. Minister for Finance may be correct. I leave the matter at that. However, my reading of the situation is that he has to pay something more than half-anna. Otherwise, the Hon. Minister for Finance would have simplified the whole issue by saying 'when there is a first sale, you pay six pies to the Government'. The matter would have ended there. From the way in which the clause is drafted, I have got a doubt or suspicion, unless it is clarified. However, the Hon. Minister for Finance was kind enough to bring in a proviso wherein a rebate is given and the proviso reads thus :

' Provided that where a dealer who has paid tax in respect of his turnover relating to goods included in clause (vii) has also paid the tax on the purchase of raw tobacco used in the manufacture of such goods under clause (viii) he shall be entitled to a rebate to the extent of tax paid in respect of the raw tobacco so used.'

Here also there is a small defect. I think it might not have been brought to the notice of the Hon. Minister. The proviso says 'in respect of his turnover relating to goods included in clause (vii)'. I think it must be item (vii). There is some defect in the drafting itself. Similarly 'in the manufacture of such goods under clause (viii)' should be 'in the manufacture of such goods under item (viii)'. I think that has been overlooked by the department. If it is so, it may be corrected.

" With regard to the tax on cigars, etc., I do not like to make any suggestion in the matter. After all it is not a question of people paying quarter-anna or half-anna. When at one stage the Government say that they would exclude a certain thing from the operation of the tax, there is no point in trying to tax that thing within 17 or 18 months. If really the Hon. Minister for Finance feels that these two industries are not going to be affected and that the tax will be working at the minimum of 3 per cent, I am satisfied. But if the Hon. Minister for Finance or Revenue at any time finds that the industries are being affected by this taxation measure, I hope they will be too willing to make necessary amendments. After all, our anxiety is that the people who are employed in these industries, not a few thousands but lakhs, and particularly when their complaint is that they are getting a poor wage, and particularly at a time when their demands are also increasing, should not be affected. We want that there should be contented labour and maximum employment. Whether smoking is bad or good, is beside

6th April 1955] [Sri Mohamed Raza Khan]

the point. As was promised by the Hon. Minister for Finance, if at any time we find that this taxation measure is working very harshly on these two industries, I think he will be the first man to come forward and make necessary amendments."

* SRI N. ANNAMALAI PILLAI :—"கனம் சபாநாயகர் அவர்களே, இந்தப் புகையிலை வரி மிகவும் அவசியமானது. ஏனென்றால் சிகரெட்டினாலே ஜனங்களுக்கு வியாதி உண்டாகிறது. பெரும்பாலோர் வேடிக்கைக்காகவும், நாகரீகத்திற்காகவும், கௌரவத்திற்காகவும் அல்லது சந்தோஷமாக இருப்பதற்காகவும் இதைப் பிடிக்கிறார்கள். மனிதன் உணவிலல்லாமல் தரித்திரத்தில் மூழ்கி தத்தளித்துக்கொண்டிருக்கும் போது இந்த தேசத்திலே சிகரெட்டிற்காக பணத்தை செலவிட்டு கஞ்சிக்கு இல்லாதவர்களை தவிக்கவிடுவது கொஞ்சமும் நியாயமில்லாத காரியமாகும். பணம் ஒருவரிடத்தில் இருக்கிறதென்றால் அந்தப் பணமானது பணக்காரர்களுக்குச் சொந்தமானதல்ல. அதெல்லாம் இந்த தேசத்தின் பொது சொத்து. சட்டத்தின் பேரிலேதான் ஒருவரிடத்தில் குவிந்திருக்கிறது. அந்தச் சட்டமானது ஒழிக்கப்படுமானால் பணம் இல்லாதவர்களுக்கு அவை களைப் பிரித்துக் கொடுக்கப்படும். அதற்காகத்தான் இப்போது பல கட்சிகள் தோன்றி எப்படி சமத்துவத்தை ஏற்படுத்துவது என்பதைப்பற்றி பெரியதொரு ஆலோசனை செய்துகொண்டிருக்கின்றன. நானும் அதைப் பற்றி ஆலோசனை செய்துகொண்டோன் இருக்கின்றேன். இப்பொழுது சர்க்கார் நிலச் சீர்திருத்தம் எப்படிக் கொண்டுவருவது என்பதுபற்றி ஆலோசனை செய்துவருகிறது."

3-20
p.m.

"சாதாரணமாக சிகரெட்டு பிடித்து வீணுக்கக்கூடிய பணத்தை நாட்டின் வறுமையைக் களைவதற்கு உபயோகிக்கக்கூடிய முறையில் வழி செய்யவேண்டும். நண்பர் கஜபதி நாயகர் கூறுவதுபோல் புகையிலையைக் குடிப்பதனால் தர்மசிந்தனையே அழிந்துவிடுகிறது. தர்மத்திற்காக இரண்டண கொடு என்றும் கொடுக்கமாட்டார்கள் என்று அவர் சொல்லுவது உண்மையே. ஆனால் இன்றைக்கு ஒரு சிகரெட்டுக்கு 2 அண, 2½ அண கொடுத்து வாங்குகிறார்கள். நானும் முன்பெல்லாம் சிகரெட்டு பிடித்திருக்கிறேன். கொஞ்ச நாள் நானும் சிகரெட் வியாபாரம் செய்திருக்கிறேன். அப்பொழுதெல்லாம் தம்பிடிக்கு 2 சிகரெட் விற்பது. ஆனால் காலக்கிரமத்தில் ஒரு சிகரெட் 1½ அண, 2 அணவாக விற்கும் அளவுக்கு வந்துவிட்டது. அப்படி இருந்தும் ஜனங்கள் பணம் கொடுத்து வாங்கி சிகரெட் பிடிக்கிறார்கள்."

"இந்த நிலையை மாற்றுவதற்கு மதுவிலக்குச் சட்டம் கொண்டுவந்ததுபோல் ஒரு சட்டம் கொண்டுவந்தால் சிகரெட்டினால் வரும் நோயை நம் நாட்டிலே வராமல் தடுக்க முடியும். சிகரெட்டினால் காச நோய் உண்டாகிறது. எனக்குக்கூட இந்த சிகரெட்டைப் பிடித்ததினால் காச நோய் உண்டாயிற்று. அதை நிறுத்திவிட்ட பிறகு நோய் நின்று விட்டது. இது என்னுடைய சொந்த அனுபவம். இதை டாக்டர்கள் ஒத்துக்கொள்ளுகிறார்கள்."

DR. A. SREENIVASAN :—"நான் ஒத்துக்கொள்ளமாட்டேன்."

* SRI N. ANNAMALAI PILLAI :—"டாக்டர் சீனிவாசன் அவர்கள் இதை ஒத்துக்கொள்ளமாட்டேன் என்று சொல்லுகிறார். ஆனால் நான் இதைப்பற்றி வைத்திய நூலில் படித்திருக்கிறேன். வைத்திய நூல் புகை பிடிப்பதனால் இந்திரியம் நீத்துப்போகிறது என்று சொல்லுகின்றது. மனிதன் காலக் கிரமத்தில் சக்தியைக் கொஞ்சம் கொஞ்சமாக இழந்துவிடுகிறான் என்று வைத்திய சாஸ்திரத்திலே படித்திருக்கிறேன். டாக்டர் அவர்கள் படித்தது ஆங்கில நூலாக இருக்கலாம். ஆனால் நான் படித்தது அகஸ்தியருடைய சித்த வைத்தியமாகும். புகையிலை போடுவது கெடுதல் என்று எல்லோரும் ஒப்புக்கொள்ளு"

THE MADRAS GENERAL SALES TAX AND THE
MADRAS TOBACCO (TAXATION OF SALES
AND REGISTRATION) (AMENDMENT) BILL, 1955
(L.A. BILL NO. 9 OF 1955)

[Sri N. Annamalai Pillai] [6th April 1955]

கிறார்கள். இதை யாரும் ஆட்சேபிக்கமாட்டார்கள். முக்கியமாக புகையிலை போடுவதால் நோய் வருகிறது என்பதை எல்லோரும் ஒப்புக் கொள்ளுகிறார்கள்.”

* DR. A. SREENIVASAN :—“ On a point of information, Sir. The hon. Member Sri Annamalai Pillai quoted Agasthiyar. I would like to know whether at the time when Agasthiyar was in existence, tobacco was available in this country. It was not.”

SRI M. P. GOVINDA MENON :—“ ஸ்ரீ அண்ணாமலை பின்னோக்கு பீடி பிடிக்கிற பழக்கம் இருக்கிறதா ? ”

* SRI N. ANNAMALAI PILLAI :—“ எனக்கு இப்பொழுது பீடி பிடிக்கிற பழக்கம் கிடையாது. டாக்டர் அவர்கள் அகஸ்தியர் காலத்தில் புகையிலை இல்லை என்பதாகச் சொன்னார்கள். அந்தக் காலத்தில் இருந்ததா, இல்லையா என்பதில் இப்பொழுதுள்ள பிரச்சனை. அகஸ்தியருடைய நூலிலே புகையிலை கெடுதல் என்று சொல்லப்பட்டிருக்கிறது. அப்படி சொல்லி இருக்கும்போது அந்தக் காலத்திலே கட்டாயம் புகையிலை இருந்திருக்கவேண்டும். ஆனால் இன்று டாக்டர் அவர்கள் சொல்லுவதற்கு என்ன ஆதாரம் இருக்கிறது. அதற்கு ஆதாரம் கொண்டு வந்து காட்டினால் நான் ஒப்புக்கொள்வதற்கு தயாராய் இருக்கிறேன்.”

DR. A. SREENIVASAN :—“ நான் அதற்கு ஆதாரத்தைக் காட்டுகிறேன்.”

* SRI N. ANNAMALAI PILLAI :—“ டாக்டர் அவர்கள் கண்டிப்பாக ஆதாரத்தை இந்தச் சட்டசபையிலே கொண்டுவந்து காட்டுவார்கள் என்று நினைக்கிறேன்.”

SRIMATHI S. MANJUBHASINI :—“ It was called ‘Brahmapatram’. So it must have been in existence.”

* SRI N. ANNAMALAI PILLAI :—“ ஸ்ரீமதி மஞ்சபாஷினி பிரம்மபத்ரம் என்று சொல்லுகிறார்கள். பிரம்மபத்ரம் என்ற பெயரில் எத்தனையோ இருக்கிறது. அவர்கள் எந்த பிரம்மபத்திரத்தை சொல்லுகிறார்கள் என்று நான் தெரிந்துகொள்ள விரும்புகிறேன். புகையிலை உபயோகிப்பதால் நோய் நிச்சயமாக உண்டாகிறது. இந்த காரணத்தினால் இதை அடியோடு ஒழிப்பதற்கு சர்க்கார் ஒரு சட்டம் கொண்டுவரவேண்டும். இல்லாமற்போனால் மேல் நாட்டில் ஒரு வஸ்துவை வேண்டாமென்றால் கொஞ்சம் கொஞ்சமாக குறைத்துக்கொள்வதற்கு வழி செய்து அதன்மேல் அதிகமான வரியைப் போட்டு நாளடைவில் குறைத்து மறைந்து போகும்படி செய்வார்கள். அந்தமாதிரியான முறைகளைச் சர்க்கார் கொண்டுவந்து நாளடைவில் இதைத் தடை செய்வதற்கு வழி செய்யவேண்டும்.”

“ இப்பொழுது கொண்டுவந்திருக்கும் புகையிலை வரியானது மிகமிக அவசியமானது. இந்த புகையிலை அநியாயமாக ஜனங்கள் நோய்க்காளாகிறார்கள். அதனால் ஆஸ்பத்திரிக்குச் சென்று மிகவும் கஷ்டப்பட வேண்டியிருக்கிறது. இதையெல்லாம் நிவர்த்தி செய்வதற்கு இந்த சிகரெட்டின்மீது எவ்வளவு அதிகமான வரி விதிக்க முடியுமோ அவ்வளவையும் விதித்து மக்களை நல்லவர்களாகச் செய்வதற்கு வழி செய்யவேண்டுமென்று கேட்டுக்கொண்டு என் வார்த்தைகளை முடித்துக்கொள்ளுகிறேன்.”

* THE HON. SRI M. A. MANICKAVELU :—“ Sir, to start with the hon. the Deputy Leader of the Opposition, I may say he had no particular objection to the provisions of this Bill. That was why as usual he went on talking about the general question of

[6th April 1955] [Sri M. A. Manickavelu]

sales tax and said that it was bad. He did not raise any objection to the rate of this tax or to the single-point or multi-point levy. So, he raised only the usual objection to the imposition of sales tax. He has no objection to the Bill as such."

* DR. V. K. JOHN :—" I would remind the Hon. Minister that we are discussing at this stage only the principles of the Bill and not the various clauses. I have very serious objection to the rate proposed."

* THE HON. SRI M. A. MANICKAVELU :—" Even though he may have very serious objection, the trend of his speech was only against the principle of sales tax and not against this Bill. It was said that an assurance by a company that the price would not be increased would not suffice and that it was open to them to raise the price. But I shall give one or two reasons why they will not raise the price. In the first place, they will not raise the price because that will affect the sale of that variety of cigarette. It would be known that when the Tobacco Taxation Act of 1953 came into operation, certain varieties of cigarettes, I mean the high class cigarettes, were given up by many of these smokers and they took to the cheaper variety because the price of the higher variety of cigarettes was too much. So, even very fastidious smokers had to give up the high class cigarette and take to the cheaper variety. Here, if the cigarette manufacturing company raise the price, that means that they will drive the smokers to take to beedis which are cheaper. So, in their own interest, they will see that the price is as it is now. That is one reason. There is also another reason why the price of cigarette will not be raised. Now it is sold at three pies each. If on account of this tax, its price is to be raised, it can be fixed at four pies only, that is $\frac{1}{12}$ th of an anna will be the addition in its price. Now this small pie is not current. It has gone out of circulation. So, if it is priced at four pies, it is very difficult to sell it for that price and to find the coin for it.

J-30
p.m.

" Then, my Hon. Colleague, the Minister for Finance, points out to me that if the price is raised to four pies, the sales will come under the higher slab in respect of assessment. The tax will be higher. So, the dealers will not raise the price. Persons who are accustomed to this class of cigarettes need not worry about any rise in price. (Interruption by Sri Alexander Gnanamuttu.) That is a thing for hardened smokers like my friend.

" Sir, it was suggested that this taxation measure would have a reformative aspect. I wish it were so; but I know there are many who smoke and who cannot do without it. As my hon. Friend Mr. Bhashyam pointed out, students especially have taken to smoking in larger numbers. Even women students smoke and it is a pity. But this taxation will not affect them. It will not put a stop to smoking. The tax is very small and it will not operate as a preventive measure at all so far as smoking is concerned. The Government have not thought of this Bill in that light."

THE MADRAS GENERAL SALES TAX AND THE
MADRAS TOBACCO (TAXATION OF SALES
AND REGISTRATION) (AMENDMENT) BILL, 1955
(L.A. BILL NO. 9 OF 1955)

[6th April 1955]

SRI V. GURUNANDAN ROW :—“ May I know how much of extra revenue the Government are going to get by means of this taxation? ”

* THE HON. SRI M. A. MANICKAVELU :—“ It may be some thirty or forty lakhs of rupees. I can put it only roughly. As I have already said when I moved the Bill, the principle is nothing new. We are already committed to this principle of taxation and as regards cigarettes, this slight increase will not affect the price of cigarettes at all. As regards other articles—tobacco and its derivatives—the tax is so low that it will not affect their prices either.

“ Sir, my Friend, Mr. Raza Khan, said that there was double taxation. I do not know how he is able to infer there is double taxation. The process of taxation is this. Now raw tobacco is taxed at the purchase point. Some of the raw tobacco is converted into manufactured products like beedi or cigar. Then the manufacturer will be taxed on the first sale of such products. Now these two taxes—one at the purchase point in respect of raw tobacco and the other at the sale point of the manufactured product—will not be operative at the same time. If, however, tax is levied twice, then there will be a rebate allowed to the assessee in respect of the double tax paid by him. So, there will be no taxation twice.

“ Then, Sir, the same Member was saying that the Hon. the Minister for Finance was introducing this measure. It is the Revenue Minister that is doing it and I do not know why he was confused. Probably he has a grudge against me. He wanted some concession to be shown to the beedi manufacturers and in fact I have taken into consideration their case also. That is why in their case the tax is leviable only at the first point. It will not affect the beedi manufacturers. Small-scale manufacturers will not come under the purview of the Bill at all because the tax can be levied only if the turnover is Rs. 10,000. Most of the beedi manufacturers are small-scale manufacturers whose turnover is less than Rs. 10,000. In fact, the bigger manufacturers say that they have a grievance in that they will be taxed while the other small manufacturers will not be taxed. They feel they are at a disadvantage as compared with the small-scale manufacturers who have got the advantage of not paying tax. Sir, this exemption is intended only to encourage cottage industries and that is why we are still sticking to the turnover limit of Rs. 10,000. In the case of most of the beedi manufacturers the tax will be so low that it can be adjusted in the margin of profit itself. It will not be passed on to the consumer. They will not do it in the interests of the industry itself. The consumer will not have to pay this tax and, as Mr. Annamalai Pillai pointed out, it will not come from the poor people.”

6th April 1955]

SRI MOHAMED RAZA KHAN :—" I am thankful, Sir, to the Hon. the Minister for Revenue for clarifying the position in regard to the mode of taxing. But I want to know from him one thing. Suppose the turnover of a beedi or cigar manufacturer is ten lakhs of rupees. This manufacturer would be paying to the Central Government by way of excise duty a considerable sum in respect of the articles covered by the turnover; at times even fourteen or fifteen annas in the rupee. I want to know whether in calculating his turnover for the purpose of assessment to sales tax, the payment made by him by way of excise duty will be taken into account and given due allowance."

* THE HON. SRI M. A. MANICKAVELU :—" In calculating the turnover, the excise duty that is paid is deducted. It will not be taken into account just as in the matter of payment of income-tax the insurance premium paid by the assessee is deducted from the income of the individual concerned."

MR. CHAIRMAN :—" The question is—

' That the Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clause 2.

MR. CHAIRMAN :—" Motion moved—

' That clause 2 do stand part of the Bill.' "

SRI MOHAMED RAZA KHAN :—" Sir, I move the amendments standing in my name, namely,—

' In the proposed item (vii) of section 5, for the words " six pies " substitute the words " three pies "'

' In the proposed item (viii) of section 5, for the words " six pies " substitute the words " three pies ".'

My amendment is very simple. I have already given due credit to the Hon. the Revenue Minister that he is as anxious as the Hon. the Minister for Finance to get as much revenue for the State as he can. We concede that whatever revenue is collected, is only for a definite or set purpose. But at the same time, let me point out one cardinal principle enunciated by various economists and also brought home to the Government by the hon. the Deputy Leader of the Opposition many times that before we launch upon any fresh scheme of taxation, a case must be made out that the particular industry or the commodity that is to be taxed is in a position to pay that tax. I am not out to defend the Deputy Leader of the Opposition. He needs no defence from me. He has

THE MADRAS GENERAL SALES TAX AND THE
MADRAS TOBACCO (TAXATION OF SALES
AND REGISTRATION) (AMENDMENT) BILL, 1955
(L.A. BILL NO. 9 OF 1955)

[Sri Mohamed Raza Khan] [6th April 1955]

3-40
P.m.

been bringing this point to the notice of the Government always and I know the Government would not accept it in nine cases out of ten. If wisdom dawns upon the Treasury Bench at least on the one occasion I have pointed out, that will do and it will certainly help the economy of the State. I thought that when the Bill was first introduced, the Hon. Minister for Finance and the Hon. the Minister for Revenue, both combined, would put it as 3 pies per rupee as in the case of many other commodities. But now it is 6 pies per rupee. Therefore"

THE HON. SRI C. SUBRAMANIAM :—" But for other articles, there is the multi-point sales tax."

SRI MOHAMED RAZA KHAN :—" Particularly the Hon. Minister for Revenue says that this tax cannot be passed on to the consumers because the nature of the trade is such, viewed from all points of view, I think the present tax of 6 pies per rupee will work very hard. I think it would be reasonable if the Government were to fix the tax at 3 pies per rupee initially when they first introduce the Bill. After the Bill is passed and after seeing the Act working for some years, they can increase the tax to 6 pies per rupee, if they are satisfied that that increase is justified. It would be logical, therefore, when the Bill is introduced that the sales tax should be only 3 pies per rupee and not 6 pies per rupee as proposed in the Bill. Therefore I think my amendment for changing the tax from 6 pies per rupee to 3 pies per rupee would be accepted."

* DR. V. K. JOHN :—" I am seconding the amendment moved by Sri Mohamed Raza Khan. I want to say a word or two. In this matter if I was given the power, I would have reduced the tax from 6 pies per rupee to one pie per rupee. I do not know whether the Hon. Minister for Revenue had read the extracts of the report of the Taxation Enquiry Commission headed by Dr. Mathai. Dr. Mathai had suggested $\frac{1}{2}$ per cent for a multiple taxation at one point. Half per cent works out to one pie per rupee. That means that if you tax at 4 points, it will work out to 2 pies. But here a huge figure of 6 pies per rupee is fixed."

THE HON. SRI C. SUBRAMANIAM :—" The Hon. Deputy Leader of the Opposition must quote correctly, when he quotes something from Dr. Mathai's report. What Dr. Mathai has said is at one point we can have higher taxation, but at every other point it should not be more than $\frac{1}{2}$ per cent or 1 per cent. Therefore at one point we may have as much tax as we like. But when it comes to be levied at other points, it should be of a small percentage, viz., $\frac{1}{2}$ per cent or 1 per cent. We have fixed the tax here, in this Bill, only at one point. At one point, we can fix the tax as much as we like, according to Dr. Mathai's report. We have fixed it at 6 pies per rupee. The question of fixing the tax at other points does not arise here, because only at one point, the

6th April 1955] [Sri C. Subramaniam]

tax is levied. Therefore we have followed Dr. Mathai in the report he has given to us and not deviated from his report, as is sought to be made out by the Deputy Leader of the Opposition."

* DR. V. K. JOHN :—" As much as 30 per cent of the turnover is being taxed under this Bill. I ask is this just. Is it right to tax 30 per cent of the turnover? Is it right for this Government to collect as much as 30 per cent of the turnover as tax? How much will a man make as profit when he does business? He may make 10 per cent of his turnover as profit. But you collect 30 per cent of the turnover as tax. You have given the figures in this Bill. Thirty per cent is a horrible amount for taxation purposes. Do you share the loss of the businessman? If he gets loss, do you share it? No. But at the same time you impose 30 per cent of the turnover as tax. This must certainly pass on to the poor man who buys this material. I have got friends here who say that people should not smoke. But smoking has come to stay. People do smoke. If it is the intention of Government that people should not smoke, let them prohibit it. But, Sir, many of the Ministers do smoke. I know that the Chairman of this august Council also smokes. I do not think there is anything wrong in smoking. When that is the case, if you impose 30 per cent of the turnover as tax, is it just? Even income-tax is not levied like this. If a man gets Rs. 10,000 as his income, the income-tax is on his income and it works out to very much less than 30 per cent. It may be 10 per cent or so. Therefore if only the Government were to consider this huge amount, viz., of taxing 6 pies in the rupee, they should not feel proud of the way in which they are managing the affairs of the State."

* THE HON. SRI M. A. MANICKAVELU :—" The Hon. Deputy Leader of the Opposition usually takes objection to our giving retrospective effect to any legislative measure. I take objection to his talking retrospectively about an Act which was passed in the year 1953. I do not know whether the Deputy Leader of the Opposition was present at the time when that Bill was passed. Had he been present, he would have voiced his strong opposition. Probably he had not been present at that time. I do not know why he was not present. In the present Bill, the taxation is only with regard to the last category of cigarettes, where we have fixed the percentage at 3½ per cent. But he is referring to 30 per cent and all that, which is not in this Bill and which I think it is not appropriate to talk at this stage.

" With regard to Mr. Raza Khan's amendment, he took objection to our mentioning it as a clause and not as an item. If there are clauses and sub-clauses, we could have put it as an item. But there was only one category and therefore what we have done will not create any confusion. (Sri K. Balasubramania Ayyar : ' It is an item here, but when it is incorporated in the Act, it would be

THE MADRAS GENERAL SALES TAX AND THE
MADRAS TOBACCO (TAXATION OF SALES
AND REGISTRATION) (AMENDMENT) BILL, 1955
(L.A. BILL NO. 9 OF 1955)

[Sri M. A. Manickavelu] [6th April 1955]

a clause. That is what he said.') I accept the explanation given by an experienced lawyer. Therefore I would request the hon. Member, Sri Raza Khan, to withdraw his amendment."

SRI MOHAMED RAZA KHAN :—" The Hon. Minister for Revenue tried to make a point that the Deputy Leader of the Opposition talked something retrospectively. May I tell him that during last year when 1/3rd of the members of the Council were elected, for nine days, the newly elected members including the present Leader of the House, were not allowed to sit in the Council, simply for passing the Bill providing for that taxation of 30 per cent of the turnover. Therefore the Hon. Minister for Revenue cannot blame the Deputy Leader of the Opposition that he was not present at the time when that Bill was passed."

THE HON. SRI C. SUBRAMANIAM :—" That does not mean that every hon. Member should go on talking about the provision in a Bill, which had been passed long ago."

SRI MOHAMED RAZA KHAN :—" At the time when the new Members were elected, for nine days they were not allowed to sit in the Council. Therefore if the Deputy Leader of the Opposition talks something on a provision in a Bill passed 18 months ago, I do not think he is wrong."

MR. CHAIRMAN :—" Are you pressing your amendment, Mr. Raza Khan? "

SRI MOHAMED RAZA KHAN :—" Yes, Sir."

MR. CHAIRMAN :—" The question is—

" In the proposed item (vii) of section 5, for the words " six pies ", substitute the words " three pies " ;

In the proposed item (viii) of section 5, for the words " six pies, " substitute the words " three pies " . "

The amendments were lost.

Clause 2 was put and carried.

Clause 3 was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

* THE HON. SRI M. A. MANICKAVELU :—" Sir, I move—
' That the Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955), as passed by the Assembly, be passed.' "

6th April 1955]

MR. CHAIRMAN :—“ The question is—

‘ That the Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955), as passed by the Assembly, be passed.’ ”

The motion was carried and the Bill was passed.

(2) THE MADRAS CITY CIVIL COURT (AMENDMENT) BILL, ^a 1955
(L.A. BILL NO. 7 OF 1955).

THE HON. SRI C. SUBRAMANIAM :—“ Sir, I move—

‘ That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be taken into consideration.’ ”

This is a simple measure dealing with the jurisdiction of the City Civil Court. Hon. Members are aware that as far as Madras City is concerned, we had a system of courts existing here different from the mufassal courts. The original jurisdiction was being exercised and is being exercised in the City by the High Court and by the establishment of the City Civil Court. Original suits up to the value of Rs. 2,500 were dealt with by the City Civil Court and later on its jurisdiction was increased to Rs. 10,000. Now we are increasing the pecuniary jurisdiction of the City Civil Court to Rs. 50,000. There has been an agitation that the Original Side of the High Court should be abolished in its entirety and the system of judiciary in the City should also be brought in line with that which is in existence in the mufassal. But, taking into consideration the historical aspect and also taking into consideration the various representations made by the Advocates' Associations and other bodies and also after consultation with the High Court, we decided to bring forward this measure which would not abolish the Original Side of the High Court, but at the same time would relieve the congestion in the High Court to a very great extent. Sir, the figure, Rs. 50,000, has been accepted by the High Court also. Therefore, I hope hon. Members of this House will agree to the passing of this Bill without pressing for amendments to reduce the amount or for any other purpose. With reference to technical amendments, if there were any, I shall certainly explain the position, if necessary, when those amendments are moved.”

3-50
p.m.

MR. CHAIRMAN :—“ Motion moved—

‘ That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be taken into consideration.’ ”

SRI K. BALASUBRAMANYA AYYAR :—“ Mr. Chairman, I appreciate the Hon. the Finance Minister's expressing the hope that there will not be much opposition to the Bill that he has presently moved. But, unfortunately, the party that will be mainly affected, among the other parties, will be the Advocates. The Madras Advocates' Association is not in favour of this change. It

[Sri K. Balasubramanya Ayyar] [6th April 1955]

has made representations to the Hon. Minister and has also sent in a memorandum on this matter. While considering this Bill, I would request the Hon. Minister to take into account a very important aspect, viz., that the nature of litigation in Madras City is different in some respects from the nature of litigation in the mufassal. In the City there are many contracts, foreign contracts, and disputes relating thereto in respect of a number of commercial firms which require speedy trial in the way in which it is done in the Original Side of the High Court. For this purpose, it is better to have a Judge of the High Court and this has been done for a long time. Before we are asked to accept a Bill like this, it must first be explained why there should be a change. The reason for the change should be stated. (Interruption.) I do not know why there should be a change at all. We do not know whether this measure has been brought forward only for the purpose of relieving the congestion in the High Court especially on the Original Side. The Original Side has not been abolished and there is also no such move at present to do it. Therefore I do not see any reason why this Bill should be introduced. Is there any reduction in the expenditure? I do not expect any reduction in the expenditure. Even in the case of the City Civil Court, we have the Principal Judge, Additional Judges and Assistant Judges. The expenditure incurred on these Judges put together will be much greater than that incurred on a Judge of the Original Side of the High Court. The chief point is that the procedure followed by the Original Side is much more adaptable for purposes of determining the various kinds of suits, like matrimonial causes and commercial causes. Madras is the capital City. In this connection, I may incidentally point out that in some other Bill, not in this Bill which is under consideration, the term 'Presidency town' has been used. It is an anomaly. Hereafter, we are not to use that term. We are to use the expression, 'capital City'. Anyway, this may be looked into in respect of the other Bill. Now, coming to the point, Madras being the capital City, the number of commercial causes coming up will be much greater than in the mufassal. These are governed by the principles of English Law in respect of various matters. So far as litigation concerning commercial enterprises in the City are concerned, during and after the last War, so many contracts, I mean a number of foreign contracts also, had to be judged and decided by applying the principles of English Law. Therefore, I submit that the Government are taking away a very valuable privilege enjoyed by the clients in the City. Hitherto, they were enjoying the privilege of having their cases tried by a Judge of the High Court. Why should the Government deny them this privilege? All along there has been this practice. If this practice had not been in existence and if nobody knew of it till now, it is all right. But, in view of the fact that the clients have been enjoying this privilege till now and also in view of the fact that there are various other factors to be taken into account, viz., foreign contracts and things like that which come up before the Courts in this capital City, I think that it is not necessary that the jurisdiction of the Original Side of the High Court, to the extent

6th April 1955] [Sri K. Balasubramanya Ayyar]

mentioned in this Bill, should be abolished. I also think that it is not necessary that the clients should be deprived of the valuable right which they have been enjoying till now, viz., having their cases adjudicated upon by a Judge of the highest Court in the State. With regard to some of the provisions contained in the Bill, I have got certain objections which I will enumerate later. For the present, I only wish to point out that the procedure adopted in the Original Side of the High Court is more suited for generally determining a large number of cases that come up here for adjudication in the capital City. That is why, I state that this valuable right should not be interfered with at the present juncture."

* SRI K. BHASHYAM :—" Mr. Chairman, this is one of these measures which affect a number of people in the City. The justification for such a measure is not stated in the Statement of Objects and Reasons. Of course, it has been stated that there is a different system prevailing in the mufassal from the one prevailing in the City and that there must be a uniform system in the mufassal and also in the premier City of Madras. How far this argument is good has to be examined. I want to say in the first instance that the growth of the Original Side of the High Court has got a historical background. It has been there for quite a long time. It is as old as the East India Company itself. The nature of cases that are dealt with by the Original Side of the High Court in the City of Madras is quite different from the nature of cases that are dealt with in the mufassal Courts. This fact has to be taken into consideration. My submission is that there must always be some distinction between the premier City of Madras and the mufassal stations. Why should there be a Corporation in the City of Madras and only a Municipality in the mufassal? Why should the Government grant large sums of money to the Corporation in the City and why are they even stinting in the matter of making grants to the municipalities in the mufassal? The Corporation here is spending lakhs of rupees. The same cannot be said in the case of the Municipalities. Why should there be a Secretariat in the City of Madras alone? Why cannot the Government spread it all over the State? Again, why should the Governor be in Madras only? Why not he spend some time in Tanjore and some time in Tiruchirappalli and some time in some other place? So, there is no question of requiring uniformity in such matters between the City and the mufassal stations. As a matter of fact, there is some difference in procedure with regard to the cases that come up before the Courts in the City and the cases that come up before the Courts in the mufassal. It is not as if there is no difference between the City and the mufassal stations in respect of this matter. The population of the City is about 12 or 15 lakhs. As was pointed out by another hon. Member, the nature of litigation that comes up in the City is absolutely different from the nature of litigation in the mufassal. Litigation in the mufassal will, in a large number of cases, be in respect of agricultural lands. But in the City, there

[Sri K. Bhashyam]

[6th April 1955]

4
p.m.

are varieties of cases. Here sale deeds, conveyances, etc., are carefully drafted. We have also solicitors whose services are utilized for this purpose. By a careful drafting of these deeds by the lawyers here, lot of trouble in Court is avoided. Unnecessary litigation is also eliminated. In the City, there is much of litigation in respect of right to house properties and contracts. They are contracts relating to sale of goods, relating to the importing of goods or exporting of goods because after all this is a mercantile city; it is a port which brings in lot of traffic from outside not only from other parts of this country but also from other parts outside this country. Cases therefore deal with contracts entered into by persons not only with persons living within this city or within this country but also with persons living outside this country altogether. The nature of the litigation obtaining in the city courts is absolutely different from those obtaining in the mufassal courts. Mortgage suits are very few here and there is the right of sale to the mortgagee and that is taken advantage of. Hon. Members would have found a number of advertisements of sale of mortgaged properties. The mortgagee sells the property even without the help of the courts, as there is no question of dispute of titles. Therefore to say that there should be uniformity of procedure in respect of all matters between the mufassal courts and the city courts is something which is not quite correct and cannot be expected.

“ Apart from this there is another point which I would like the Government to consider. In respect of litigation, there is a sort of tradition in respect of this matter here. There are Solicitors trained in English law and procedure. A brief statement of the case is prepared and the Judges and others are in possession of the facts of the case without much difficulty. The Hon. Minister Sri C. Subramaniam is a mufassal lawyer. If only he had been practising on the Original Side in the High Court, he would have known it. I may tell him what is happening here. The rules here provide that there must be a list of documents at the time; otherwise the party is not allowed to put in these documents. That is the penalty imposed on the party for not filing the documents at the time. In the mufassal, this procedure is not taken advantage of. In the city, the Master looks into these matters before the case is put up before the Judge. So far as the preparation of the cases is concerned, the documents are bundled and both sides agree to this. In fact it is called ‘ the agreed bundle ’. All these cases are mostly contracts. It is only a question of construction of the contracts. All the correspondence is therefore bundled up according to dates and the ‘ agreed bundle ’ is given to the Judge. Therefore so far as preparation of the case is concerned, it is a perfect system that is adopted here. Then, the Judges dealing with those cases are High Court Judges. So far as English practice is concerned, all litigations go before the Judges at Westminster. Sometimes they go in circuit no doubt. But the other cases are all decided by High Court Judges themselves, sometimes sitting in London and sometimes in circuit. The system followed here is very much like the English

6th April 1955] [Sri K. Bhashyam]

practice. This really adds to the efficiency of the administration and the satisfactory nature of the disposal of the cases. In this connection, Sir, I may say the persons really affected are not the lawyers practising on the Original Side of the High Court? In fact I am not practising on the Original Side of the High Court. If therefore, I say anything, it is not for the purpose of furthering my interest or the interests of those advocates practising on the original side. It is for the benefit of the very large number of litigants in the City of Madras, who are mostly merchants and who are affected by this legislation. Were these merchants consulted? Were the Chambers of Commerce who are interested in this measure, consulted? In fact I was told that one of the Chambers of commerce had not even seen this Bill because it was not sent to them for opinion. They have protested against it. It has however, been stated that the High Court had agreed to this measure.

“ So far as the question of uniformity is concerned, I want to make one more submission. This is not a new thing that the Government are attempting to do. Even as early as 1870, this seems to have been mooted. Let me quote what Sir Phillip Hudson, the then Executive Councillor, had stated even as early as 1870. He said ‘ Whether we have regard to efficiency of the Judges themselves, the maintenance of a good Bar, the impartial Administration of Justice for the protection of the people at large or any other of the objects which a good Executive Government must always keep in view, I am very decidedly of opinion that the substantial maintenance of the Original Side of the High Court is a matter of supreme importance ’. This was said as early as 1870. This has been found true even to-day. But the Hon. Minister might say : ‘ We want uniformity ’. I may tell him again that he has had no experience on the Original Side. Most of the advocates coming from the mufassal do not know what is happening here.

“ My submission further is, let the matter be referred to the Chambers of Commerce and the Government would find that they are satisfied with the preparation of the cases here in the City Courts. These merchants have also got cases in mufassal courts. They have experience of how it is done there and how it is done here in the City. They may well be asked on this matter. It is not as if, I repeat, I am arguing the case of the lawyers practising on the Original Side of the High Court. If as a result of this measure they don't get briefs on the Original Side, they can get the same cases in the City Civil Court and make the same money. But my respectful submission is that we should not be led away by the fact that there must be uniformity as between the mufassal courts and the City courts. A serious step is being taken by Government. As I have already mentioned the administration of justice in the City is much more efficient than in the mufassal. This will be evident if you look at the comparative percentage of appeals going from the Original Side, and those coming from the mufassal. You will find the percentage is very little in respect of

[Sri K. Bhashyam] [6th April 1955]

appeals going from the Original Side of the High Court. It is because the Original Side judgments are very satisfactory. People are satisfied and do not take the matter in appeal. If you say the appeals from the mufassal courts is 5 or 10 per cent, it will be half per cent or even less in respect of cases from the Original Side of the High Court. Appeals on cases decided by the Original Side are very very few and appeals to the Supreme Court is practically nil. This only speaks of the efficiency of the administration of justice.

"I want to make another submission, Sir. Persons affected by this legislation are mostly litigants of the city, especially the merchants. Representatives of the various Chambers of Commerce ought to have been consulted before this legislation was undertaken by the Government. Government have stated in the Statement of Objects and Reasons that this Bill has been brought forward with a view to bring in uniformity of procedure in respect of the City and mufassal courts. It is not as if there is no uniformity now between the mufassal and city courts. In fact uniformity obtains even now. It is not as if the city litigant gets his litigation decided at a low cost. The Court Fees Act has been extended to the High Court also, that is to say, the city litigant pays as much to get a decision as a mufassal litigant does. Therefore it is not as if the city litigant has an advantage over the mufassal litigant. On the other hand the city litigant suffers under one disadvantage in that for every application he makes to the High Court, for the purpose of getting anything done, he pays Rs. 5 or even Rs. 10 for what you call 'notice of motion' or even 'chamber application', while the mufassal litigant can get such a thing done by paying eight annas or twelve annas. In addition to this, the city litigant pays for every day a sitting fee of Rs. 25. Though this is somewhat costly, the city litigant does not mind it because he gets efficient administration of justice. He need not go in appeal and spend on all other things.

"Therefore, Sir, my only submission is this. If there is efficiency in the administration of justice, why pull it down on a level with the mufassal courts? It is not good to do so. If the administration of justice in the mufassal is not so good as that in the city why not tone it up? How to do it is the question. Sir, if the Hon. Minister and others sit together in conference, we can consider how this could be done. We can, if necessary, improve the rules obtaining in mufassal courts. The procedure adopted on the Original Side of the High Court has been in force for a number of years. The same procedure may be used for mufassal courts also. (Interruption.) Every man invokes God for his own purposes, for his own success. People do it and there is no doubt about it. I do the same thing. But let us not quarrel over these small things, or invoke God at the present moment. Let us not disturb Him over this small matter. I only ask, why not tone up the administration in the mufassal and bring it up to the level of the City Courts?

6th April 1955] [Sri K. Bhashyam]

“ Then I wish to refer to another matter. There are a number of persons being trained as lawyers. There are apprentices who are really attending the Original Side of the High Court and they get a better atmosphere in which to learn their business. They really imbibe the etiquette of the Bar in the High Court better than in the mufassal courts. Therefore, under these circumstances I think, a case can better be made out for the abolition of the City Civil Court itself or at least cutting down its jurisdiction. 4-10 p.m.

“ Sir, it has been stated that the idea behind this Bill is to speed up the disposal of cases. I am told—of course it is a non-official information—that nearly 3,000 cases are pending now in the City Civil Court. Originally there was one Judge and now there are three Judges and a fourth Judge has also been appointed recently. Now if in addition to 3,000 cases already pending, another 1,000 cases are transferred to the City Civil Court after this Bill is passed, there will be further delay. As a matter of fact, two more Judges will have to be appointed to dispose of these cases. Of course, the Principal Judge will be of the rank of a District Judge. But sub-judges will come from mufassal courts. They do not have sufficient knowledge of the procedures and rules and how the ‘rigour’ of these rules should be enforced against litigants. They must be up to the mark and they must not lag behind. If, as a result of this measure, 70 per cent of the cases are transferred to the City Civil Court, I do not know how there will be more speedy disposal of cases. That apart, there is also another question involved in the matter. How are we going to get accommodation for six or seven Judges. Now, as it is, several courts function in one building. Some rooms give an appearance of hovels and they are dark. In these hot days it is impossible to hold the sitting of the court in a dark room without proper ventilation. Sir, if these courts are located in a certain specific place, it will be convenient to lawyers, it will be convenient to the litigant public and it will also be convenient to Judges. After all, the atmosphere in which these courts are situated should be congenial and every convenience should be provided and then only it will be convenient to dispose of cases. If a judge has not got a properly ventilated room, his feelings of disgust and discomfort are felt in his decisions. The lawyers and the clientele are the poor victims of this feeling. Therefore, I would request the Hon. Minister for Law to look into the question of accommodation also and see that proper housing and proper facilities are provided for them.

“ Then I come to another matter. In the Bill it is proposed to extend the jurisdiction of the Madras City Civil Court to try cases of the value of Rs. 50,000. From 10,000 it has been raised to Rs. 50,000 which is a very big jump. Why not this be raised only to Rs. 20,000 or Rs. 25,000? As it is, the Government can, by notification, enhance the pecuniary jurisdiction of the Court to Rs. 20,000, see how it works and then go step by step in respect

[Sri K. Bhashyam] [6th April 1955]

of this matter. Therefore, I feel that the raising of the jurisdiction from Rs. 10,000 to Rs. 50,000 is too high. I shall speak at length when the amendment, which I have given notice of, comes up for discussion.

" So far as appeals are concerned, there is also another difficulty. What is sought to be done, under this Bill, is this. We appoint the Principal Judge with the rank of a District Judge. I think, the District Judge will be appointed as the Principal Judge, and the Assistant Judges will come from mufassal courts. As it is, an appeal from the Assistant Judge would lie to the Principal Judge and he has to dispose of it himself or send it to other Assistant Judges. But I submit that difficulties will arise in respect of this matter. At the present moment, appeals lie to the High Court from the City Civil Court. Now if they are sent to the Principal Judge, there will be more delay and prolonged litigation and they will not be disposed of quickly. Therefore, it will be much better if the appeal should lie, as at present, direct to the High Court. Now what happens in the mufassal court? Suits involving a value of less than Rs. 3,000 are heard by the District Munsif and suits valued between Rs. 3,000 and Rs. 5,000 are to be heard by the District Judge. I do not know how unanimity in respect of this matter is kept up in this Bill. It is stated there that cases valued less than Rs. 5,000 can be tried by the Principal Judge on appeal. Sir, there is also one other serious difficulty involved in the matter. Power is given to the Principal Judge to transfer one case from one subordinate judge to another. I may tell the Government that it will be difficult to work it. Suppose a First-class Sub-Judge has been appointed and he decides a case and an appeal is preferred to the Principal Judge. There may be four or five Sub-Judges of a second grade. If the Principal Judge is to transfer that appeal to an ordinary sub-judge, the judge who is inferior and junior to the judge who first decided the case would hear it. Such things may happen. Perhaps instructions may be given to the Principal Judge not to do so but as a matter of fact such instructions cannot be given to him. As practical difficulties are involved in the matter, I hope the Hon. Minister will look into it.

" Now, I wish to refer to one other important matter. Sir, I can understand a measure being brought in for the purpose of governing the suits that would be handled hereafter. Now what is stated in the Bill is that as soon as it is passed, all the suits with a value of more than Rs. 5,000 pending disposal will stand transferred to the City Civil Court. That is why I have given notice of an amendment which gives exemption to suits in which issues have been framed or suits which are part-heard. I do not know how suits can be automatically transferred. First of all, they will have to be numbered and various processes have to be gone through. Further there will be delay in the disposal of cases."

6th April 1955]

MR. CHAIRMAN :—" There are a number of Bills to be passed. So, let the Member finish his speech soon."

* SRI K. BHASHYAM :—" It is an important measure and I require more time. It is a matter affecting the administration of law and I have been commissioned by the Advocates' Association to impress upon the Government to drop the measure if possible or at least amend it suitably."

MR. CHAIRMAN :—" Let the hon. Member take five more minutes."

THE HON. SRI C. SUBRAMANIAM :—" The hon. Member, Sri Bhashyam, is attempting at the impossible."

* SRI K. BHASHYAM :—" If the Hon. Minister, Sri Subramaniam does not agree with what I have stated, perhaps he may be wiser than myself or I may be wiser than he."

THE HON. SRI C. SUBRAMANIAM :—" We are personally affected and we know the judgments are also affected." 4-20 p.m.

* SRI K. BHASHYAM :—" Sir, that is why I said I have no practice on the Original Side. There may be one or two cases. It may be that one of my friends has entrusted it to me or it may be that a person specifically wants that I should appear in the case. My practice is restricted to the appellate side."

DR. V. K. JOHN :—" Sir, is it in order to attribute motives to an hon. Member? "

THE HON. SRI C. SUBRAMANIAM :—" I never did that, Sir."

* SRI K. BHASHYAM :—" Sir, I don't expect the Hon. the Law Minister to say anything of the kind and I understand him all right. What I mean and what the Hon. Minister means is known to both of us. The question is how are the Advocates affected. Persons who are really engaged as lawyers will get the case either transferred or they will appear in the City Civil Court. After all, it is in this City itself. It is not in the mufassal. Therefore, to say that the Advocates will be affected is something which I cannot understand. We want efficient administration and speedy disposal of cases by a person eminently fitted to dispose of those cases. That is the anxiety on the part of the client. The Advocates will get their fees in any case, whether in the City Civil Court or in the High Court. Therefore, let us not attribute motives to the Advocates' Association. It is a cheap gibe to say that the lawyers will be affected. Therefore, I wish to point out that there is no advantage in any case, either in abolishing the Original Side altogether or raising the jurisdiction to such a high figure as Rs. 50,000. I oppose this measure altogether."

[6th April 1955]

* **DR. V. K. JOHN** :—“ Mr. Chairman, Sir, I have experience of practice on the Original Side of the High Court where most of my practice is. I have also got practice in the City Civil Court and the District Court and I think I can speak with some authority and experience on this matter. The move now is to approximate one system to the other, the mufassal system to the City system. It is one of the fundamental responsibilities of a civilized State to provide a machinery for the administration of justice—a machinery which will be speedy, cheap, efficient and impartial. When courts of justice were introduced in this country by the British, they wanted to follow the principle obtaining in Britain. In England suits are tried by the High Court Judges. Even to-day you can file a suit in the High Court of England for any amount, even for 1 sh. or 1 d. Costs are in the discretion of the Court. Although there are County Courts, it is possible for any client to choose the High Court. On account of lack of communications and other factors, the Britishers thought that the system prevalent in England could not be introduced in the mufassal. They introduced the British system in three important commercial centres, Bombay, Calcutta and Madras. They introduced another system for the districts by constituting District Judges, Subordinate Judges and District Munsifs in the mufassal. Now, first of all, the question is which is the more efficient one. We have to take into account the efficiency, the cost, the speed with which things are done impartially and the confidence of the litigant public and say which is the more efficient one.

“ Suppose a High Court Judge tries a matter. He has got a particular status. He is more well versed in law. He has got greater experience. There is a world of difference between a trial by a High Court Judge and a trial in the mufassal by a District or Subordinate Judge. This can be understood by a person who has got experience of both. A litigant is satisfied with the judgment of a High Court. If you look into the statistics, you will find that there are very few appeals from the Original Side of the High Court to the Appellate Side of the High Court because people are satisfied that a learned Judge, a person of a very high status and of indisputable impartiality, has adjudicated the case. (The Hon. Sri C. Subramaniam : ‘ Sir, is it right on the part of the hon. Member to say that the Judges in the mufassal are not so impartial? ’) I am not imputing motives to anybody, but I am only talking about the confidence of the litigant public. If I were a litigant, I would be more satisfied with the decision given by a High Court Judge than a District Judge or a Subordinate Judge or a District Munsif. A litigant would like his case to be tried by the highest Judge if he can get it. There is no question of bringing discredit to anybody. But it must be admitted that there will be greater efficiency and it will inspire the confidence of the litigant public if a High Court Judge were to try the suits. In my opinion, we should extend the High Court system of trial to big towns like Madurai where there are easy means of communication. There should be circuit Judges. In Britain also there is

6th April 1955] [Dr. V. K. John]

the question of distance, but there the Judges go in circuit. This will have a very good effect upon the litigant public, the lawyers and the Judges there. Suppose a High Court Judge sits and tries cases at Coimbatore for two months. That will create a better atmosphere in the administration of justice. If the Government want to approximate one system to another, they should have gone in the opposite direction, by following the British practice of having circuit Judges going to and sitting in mufassal centres. If that could be done, we would be raising administration of justice to a higher level than to-day. Instead of that, the Government are destroying that one efficient system of administration of justice which we are having for a long time.

"Now let me dwell upon the procedure that is followed in the High Court. The Hon. Minister Sri C. Subramaniam may be familiar with the procedure obtaining on the Original Side of the High Court. The procedure adopted for the trial of cases is a quick one. In the District Court, the Judge has to write down the deposition of the witness himself whereas in the High Court a shorthand-writer takes down the questions and answers. The High Court Judge listens to and understands the case and makes notes for himself. It will perhaps take four or five days for a District Judge to do what the High Court Judge does in one day. Then, in the High Court all the documents are typed and they are read so that the trial of the case is over in a day or two. It would probably take a week or so in a District Court or Sub-Court. Further, judgment is delivered without much delay. Everything is fresh in the mind of the Judge and the case is not adjourned if it is part-heard. Sir, the present system which is followed in the High Court is a very efficient system and is conducive to speedy disposal of cases. Instead of adopting this system in the districts also, the Government are abolishing the system now followed in the High Court itself, and are trying to bring the mufassal system into the City. I say, Sir, that this is a wrong thing to do.

4-30
p.m.

"What do we gain by adopting the system suggested by the Government? Is it cheaper? Certainly not. We will have to appoint more senior judges. I challenge the Government to give me figures to show how the system suggested by the Government is cheaper. Again, Sir, there will be delay in the disposal of suits by the City Civil Court. Almost every case disposed of by the City Civil Court will go in appeal to the High Court and consequently there will be lot of delay. But as, under the present system a majority of cases are decided by the Original Side of the High Court, they are not taken on second appeal at all. But if this Bill were to be passed into law, 90 per cent of the cases disposed of by the City Civil Court would in appeal to the High Court. Naturally this will require the strength of the High Court to be increased. The Government will not save anything as a

[Dr. V. K. John] [6th April 1955]

result of passing this measure. The system will not be cheaper at all. The system will be much worse because a person who decides a case in the City Civil Court will not have the same reputation as a High Court Judge. Therefore, Sir, from the point of view of cheapness, from the point of view of speedy disposal of cases, from the point of view efficiency and from the point of view of confidence of the litigant public, the system which we are now following is a better one. The system which we are now following is the one adopted in Great Britain also. It is wrong, Sir, to adopt the mufassal system in the City. On the other hand if the present system which is adopted in the City is extended to mufassal areas also and if High Court Judges go on circuit to mufassal areas, there would be greater direction and guidance given to the District and Subordinate Judges.

“ I wish to refer to one or two clauses in this Bill. I find from the provisions of clause 8 how thoughtlessly this Bill has been drafted by the Government. Clause 8 contains transitory provisions. It says that—

‘All suits pending in the High Court on the date of the commencement of this Act and which would be within the cognizance of the Madras City Civil Court under the provisions of this Act shall stand transferred to the Madras City Civil Court.’

Sub-clause (2) of Clause 1 says that this measure will come into force on such date as the State Government may, by notification in the *Fort St. George Gazette* appoint. Suppose, Sir, the Government notify in the *Fort St. George Gazette* that this Act will come into force on the 1st of August this year. As per the provisions contained in clause 8 of this measure, all suits pending in the High Court on that date and which would be within the cognizance of the Madras City Civil Court shall stand transferred to the Madras City Civil Court. Even if in a case judgment has been reserved by the High Court, that case also, according to the provisions of clause 8, will have to be transferred to the City Civil Court. There may be part-heard cases on the 1st of August. There may be cases where a preliminary decree has been passed and final decree is awaited. But, under the provisions of clause 8, all these cases also will have to be transferred to the City Civil Court. I do not know whether the draftsmen of this Bill have ever considered the effects of this clause. In fact, Sir, when the Andhra Act was passed, a rule was made that those cases which were in the list prepared by the Chief Justice would alone be transferred to the Andhra High Court. That is a reasonable provision. All cases where the cause of action arose in the Andhra area were not transferred to the Andhra High Court and some of the cases were disposed of in the Madras High Court itself. I ask the Hon. the Minister in charge of this Bill to consider the effect of the provisions contained in this clause. According to the provisions contained in Section 24 of the Civil Procedure Code, the High Court can *suo motu* transfer any case from one court to another or from itself to another. Even without this clause 8, the High Court would transfer such of those

6th April 1955] [Dr. V. K. John]

cases which ought to be transferred to the City Civil Court, and they themselves would decide in cases where judgment is reserved or where a preliminary decree is given, etc. We need not have this clause 8 at all. In fact, when the Madras City Civil Court Act was previously amended enhancing its pecuniary jurisdiction from Rs. 2,500 to Rs. 10,000 no provision similar to clause 8 in this Bill was introduced in the amending Act. The Hon. Minister who is himself a lawyer will, I hope, consider the effect of the provisions in this clause, and see whether something cannot be done so that justice may be done to all people. I hope, he will look into this matter.

“ I also wish to refer to another point with regard to provisions made for ‘ Appeals ’ in clause 6 of the Bill. I remember to have read a Privy Council decision in an Australian case that ‘ appeals are not a matter of procedure and that they are substantive rights. ’ When a man files a suit in a particular court, he immediately gets a right of appeal to a court which has the jurisdiction to entertain an appeal at the time he files a suit. The provisions in this clause 6 have not been clearly worded. The right of appeal is not a matter of procedure. It is a fundamental right. I do not think that the wording in clause 6 is so clear as to convert that right into a substantive right. I would like the Hon. Minister to investigate into this matter.

“ Sir, up till this day, I was under the impression and I thought that my information was correct that the High Court recommended only enhancement of the pecuniary jurisdiction of the City Civil Court up to Rs. 20,000. But the Hon. Minister told us that the recommendation of the High Court was for the enhancement of the pecuniary jurisdiction up to Rs. 50,000. But so many people, men in authority from whom I can get correct information told me that it was Rs. 20,000 that the High Court recommended. It is for the High Court to make suggestions with regard to the question of increasing the pecuniary jurisdiction of the various Courts and it is for the Government to accept it. I was under the impression that the High Court recommended only Rs. 20,000, and anyhow I take the statement of the Hon. Minister that the High Court recommended Rs. 50,000.

“ Before I close, I would like to make one more request. There is one great advantage for District Judges being posted as Principal Judge or as Additional Judges of the City Civil Court. It is not without some advantage. Leading lawyers in the Madras High Court will be appearing before them. I suggest to the Government to see that almost every District Judge gets a chance to become the Principal Judge or Additional Judge in the City Civil Court because he will go from here to the mufassal with some better idea as to how a case should be tried. The Civil Procedure Code practice is different. We might insist on the High

[Dr. V. K. John] [6th April 1955]

Court practice being followed as far as that can be accepted. High Court practice is very much better. I think it will be a good lesson for District Judges to be posted to Madras because being the metropolis there are more senior and eminent lawyers practising in the High Court.

“ Another thing I would ask the Hon. Minister is not to increase the jurisdiction of the City Civil Court to Rs. 50,000 all on a sudden. Under Clause 2 the words ‘ ten thousand rupees ’ are substituted by the words ‘ fifty thousand rupees ’. When we read Section 3 of the original Act, we will find ‘ such value not exceeding Rs. 10,000 ’. When we start, we can say Rs. 15,000 and later on Rs. 20,000 after a year when we have got the accommodation and after seeing how it works. Then, gradually we can increase it to Rs. 25,000, Rs. 30,000 and then to Rs. 50,000. You cannot abolish the Original Side of the High Court. But after all this is an indirect way of abolishing the Original Side. I would suggest to the Hon. Minister not to have Rs. 50,000 limit immediately, but to go slowly. He may now increase it to Rs. 15,000 or Rs. 20,000 and one year later it may be more. When Rs. 10,000 limit was fixed the Government were also eager about the Court-fees. But recently they made the Court-fees the same in the High Court as in the other courts. In London, there is no Court-fee at all and there is only a hearing fee. In Calcutta and Bombay there is no Court-fee in the Original Side of the High Court. In Madras we had Rs. 30 and later Rs. 225. Later we had the *ad valorem* Court-fee paid in the mufassal. Government are not losing any money by having the suits in the High Court. In fact Government will get more money as fee paid on applications in the High Court. I would, therefore, very seriously suggest to the Hon. Minister for Law to fix a lower limit and see how far it works, how far the litigant public have confidence and then slowly go up to Rs. 50,000. He need not go to the limit of Rs. 50,000 all on a sudden.

“ I would strongly urge upon him to consider the question of deleting Clause 8 which will work great havoc and lead to the High Court transferring all the cases. Some cases may be very important, very complicated involving very difficult questions of law. Those cases may be kept in the High Court and others may be transferred to the City Civil Court. Therefore, if Clause 8 is deleted, under Section 24 of the Civil Procedure Code, the High Court is not bound to transfer all the cases, but can transfer cases. I know that the High Court will transfer 99 per cent of the cases within the pecuniary jurisdiction of the City Civil Court. I would, therefore, request the Hon. Minister to delete Clause 8 and also not to go up to Rs. 50,000 quickly, but in stages.”

THE HON. SRI C. SUBRAMANIAM :—“ Mr. Chairman, Sir, we have listened with great attention to all the arguments advanced by hon. Members. A question was posed why there should be a

6th April 1955] [Sri C. Subramaniam]

change at all in the existing system and I was put on my defence as far as that was concerned. We have got two systems prevalent, one in the mufassal and the other in the City. What is the justification for this difference? Originally it might be that trade, business and commerce were concentrated in the City. Not only that, they were all concentrated in the hands mostly of foreigners. Therefore, they wanted a system with which they were familiar. There were English Barristers who had come over here and set up practice and their interests also had to be taken into consideration by the then Government which had the interests of those persons in their heart of hearts. Original Side developed here because of those historical reasons. But, Sir, may I ask hon. Members whether business, trade and commerce are concentrated only in the City of Madras? I may claim, coming from Coimbatore, that it is as important as Madras from the industrial, trade and commercial point of view. So also Calicut which is a port town. Madurai is important enough and Tiruchirappalli is also important enough. Under those circumstances, we cannot say that different circumstances prevail in the City of Madras which do not prevail in other towns. Commercial causes are not peculiar to the City alone. There are commercial causes in Coimbatore, Tiruchirappalli and Madurai, and as a matter of fact they are now being tried as commercial causes under the special procedure laid down for commercial causes. There is nothing new. Because of the development of the entire country, other towns have also become as important as the City of Madras, if not more important in certain respects. Therefore, to claim certain importance to the City of Madras alone and to claim Original Side as a privilege to be retained in the City of Madras, I am unable to understand.

“ Solicitors’ system has gone here after the departure of Barristers. I do not think Solicitors as such are existing now except a few firms like King and Patridge. Generally what prevails in other towns prevails here. Advocates are also here and they are not assisted by Solicitors in the conduct of their cases. That being so and now that conditions have changed, I do not see why we should have a different system altogether in the City of Madras.

“ Then, we have to find out whether the system in the mufassal has failed necessitating the introduction of the system which is prevalent in the City of Madras all these years. I can claim with a certain amount of intimate knowledge of the working of the judiciary in the mufassal towns—I would not say that they are on a par with High Court Judges, and after all we have to take into account the pay which a High Court Judge receives and the cadre from which High Court Judges are recruited and they are paid Rs. 3,000 even under the Constitution and before the Constitution Rs. 3,500 and Rs. 4,000 also—that the subordinate judiciary has played its part very well. As far as our judiciary are concerned—of course there are exceptions and exceptions can

[Sri C. Subramaniam] [6th April 1955]

be stated even from the Madras High Court or from any other High Court, but they are exceptions—on the whole, they have acted impartially and they have maintained their integrity of which we can be proud. Therefore, by comparing let us not bring down the integrity or impartiality of the subordinate judiciary in the mufassal. On the other hand, they have maintained a very high standard of integrity and impartiality. That I can vouchsafe. That being so, if a Subordinate Judge in a mufassal Court can exercise unlimited jurisdiction, whether it is Rs. 5 lakhs, 10 lakhs or one crore and apart from the value of the suits however involved those suits might be, if he is competent enough to try those suits and deliver judgment, I do not see how he would become incompetent because he happens to sit in the City Civil Court here. With great respect to hon. Members who opposed this on the ground that efficiency would go down and who said that it would be better if the case was tried by the High Court Judges in the City, I have to say that I am unable to agree with them. After all, when a person becomes a Subordinate Judge, he would have acted as a District Munsif for a pretty long period, generally about ten years, and he would have had a good deal of experience whereas a High Court Judge may be recruited straight from among the practising lawyers. The latter may not have had any experience in judging matters even though he might have been a very successful lawyer. But a District Munsif, after a good deal of experience in judging matters, becomes a Subordinate Judge and then tries suits up to Rs. 3,000 in the mufassal. So, I do not see why such a Subordinate Judge who is competent enough and who is, as a matter of fact, trying all suits involving various matters, whatever may be the value of the suits, is not competent enough to try a cause which arises in the City of Madras, and considering the change in circumstances, I do not see any difference between the City of Madras and the other important mufassal towns.

“Then, it was put on a higher level that this was a valuable right of the clients which was being taken away now. These valuable rights are not natural rights. These are only statutory rights, procedural rights, granted in respect of certain matters. Certainly, it is for the Legislature as the supreme body to take note of the changing circumstances and to make changes in procedure in respect of the Courts. It should not be considered a fundamental right. Even a fundamental right is a creation of the Constitution. It cannot be considered a natural right which is enjoyed by only the citizens of Madras and not others. It is a statutory right which has been given to have certain suits instituted on the original side. It should be open to a body competent to make that statute to alter that statute also. So, I do not accept this theory of valuable right vested in the clients being taken away as if it is something which is inalienable and which cannot be changed at any time.

“Then, the hon. Member Sri Bhashyam also argued from the aspect that these had been functioning very well and very

6th April 1955] [Sri C. Subramaniam]

efficiently and that the lawyers also had become accustomed to the practice here and that they were more diligent than lawyers in the mufassal in the preparation of cases and in the filing of documents. I do agree, but it is not because of the lawyers here. It is because of the circumstances prevailing in the City. It is because the educated section of the people live in the City. They have the documents with them and whenever a dispute arises, they are able to produce all the documents relating to that. Even if other documents are necessary, they get copies of them. Therefore, the efficiency of the Courts is not due to the greater efficiency of the lawyers but to the situation prevailing here. The clients in the City are educated; they preserve documents and when a suit is filed, they place the documents in the possession of the lawyers. But in the mufassal there are clients who are not educated, who are backward and who do not adopt businesslike methods. Therefore, if we insist on the same standard in the mufassal, no case can be carried on. At a very late stage, the client brings to the notice of the lawyer a certain document which is very important and which has been made available to him just then. That cannot be brushed aside. That is because of the circumstances prevailing in an area. But even in the mufassal circumstances are changing and lawyers and clients are more diligent in filing their documents than before. So, that need not be an argument to say that mufassal lawyers are of an inferior grade and that there is a better grade of lawyers in the City, and so also that there should be better judges in the City and that the judges in the mufassal are of an inferior type. That argument does not appeal to me even though it might appeal to some hon. Members.

“The hon. Member Sri Bhashyam referred to the argument about accommodation. I do agree that accommodation is wanting. But I may inform the hon. Member that the High Court have taken notice of that and that they have addressed the Government that further buildings should be put up for locating the City Civil Court and other quasi-judicial bodies which are sitting in the various parts of the City so that it may be convenient for all the lawyers to attend the Courts whenever they like. That is under the consideration of the Government. I am hoping to take it up sometime later on when the building programme will be taken up so that all the Courts and other quasi-judicial tribunals which are functioning in the City may be located in one block. That is under the consideration of the Government and we may take steps very soon for that purpose.

“A reference was made with regard to appeal direct to the High Court against the judgments of the City Civil Court which is being taken away. This is also in accordance with the procedure prevailing in the mufassal. All appeals against the judgments of the Munsif's Courts and Subordinate Courts up to a value of Rs. 5,000 can be heard by a District Judge. But in respect of judgments passed by the Munsif's Courts, a Subordinate Judge

[Sri C. Subramaniam] [6th April 1955]

also can hear the appeal. That is the position there. Therefore, up to a value of Rs. 5,000, an appeal does not go to the High Court, but it lies to the District Court or the Subordinate Court, whatever it might be. Here also we want to provide that up to a value of Rs. 5,000 there should be an appeal only to a Subordinate Court and not to the High Court direct. So, we have said that all suits below Rs. 5,000 jurisdiction shall be appealed against to the City Civil Court itself. That is why we are creating two sections in the City Civil Court—one, a Principal Judge and Additional Judges of the cadre of District Judge, and two, Assistant Judges who would be of the cadre of Subordinate Judges. As against a decision of the Assistant Judge, an appeal is provided for to the Additional Judge or to the Principal Judge. That is, the Principal Judge may transfer it to the Additional Judge. But the Principal Judge and the Additional Judge will naturally be of the cadre of District Judges. So, a judgment of the Assistant City Civil Court Judge, provided the value of the suit is confined to Rs. 5,000, can be appealed against to the Principal Judge. It can be heard by him or by the Additional Judge. In respect of suits of a value of more than Rs. 5,000, appeal to the High Court direct will lie. Suppose the Principal Judge or the Additional Judge himself tries a suit whose value is less than Rs. 5,000. In that case, as in the case of a trial of a suit by a District Judge as an original suit, the appeal has to go directly to the High Court. Therefore, the confusion pointed out by the hon. Member Sri Bhashyam is not likely to arise. There is no room for that."

DR. V. K. JOHN :—"What about the City Civil Court Judge who has no time except to hear appeals? "

THE HON. SRI C. SUBRAMANIAM :—"Just like a District Judge, when we invest these Judges with sessions powers also later on by bringing in a Bill, such a Judge will also be hearing merely sessions cases and one or two trial suits also. There would not be any difference between the District Judges and the Principal Judge of the City Civil Court when we transfer this power.

"A point was raised with reference to clause 8 that all suits or appeals would stand transferred when that clause came into effect. But we are not giving immediate effect to it. We will give effect to it only after the expiry of the vacation so that suits may not be pending at half-stage. Even supposing it comes into effect, there are two methods of doing that. One method is to ask the High Court to transfer all suits which can be transferred.

5 p.m.

"Another method is the High Court has got the power to withdraw any suit from any court to its own file. It can take into its own file all cases which are part-heard or which, it thinks, it should hear. So, it is only a matter of procedure. The High Court has preferred this provision to any other. We have been guided by the advice of the High Court in this matter.

6th April 1955] [Sri C. Subramaniam]

"Then, Sir, with reference to the question of raising the jurisdiction of the Court to 50,000 rupees, it was said that it should not have been done. Here again, we have consulted the High Court. After all, the High Court knows the entire state of affairs in the court, the nature of disputes in the suits and whether it is necessary for a High Court Judge to dispose of a particular suit on the Original Side. The High Court has advised us that as far as the City Civil Court is concerned, the jurisdiction should be raised to 50,000 rupees. Taking all these facts into consideration, I am afraid there is no justification for the stout opposition which has been put up by various hon. Members of this House. I know they are very good lawyers on the Original Side. I know Dr. John and others who have experience of the work done in the High Court. And it is not as if, Sir, we are bringing in this amendment here only. In Bombay and in Calcutta, they have already moved in this direction. The jurisdiction of similar courts there has been raised. I do not think we are taking any wrong step. I am convinced, we have taken a step in the right direction and I am sure the House will endorse it."

MR. CHAIRMAN :—"The question is—

'That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be taken into consideration.'"

The motion was carried and the Bill was taken into consideration.

Clause 2.

MR. CHAIRMAN :—"Motion moved—

'That clause 2 do stand part of the Bill.'"

* SRI K. BHASHYAM :—"Sir, I move the amendment standing in my name, viz.—

'For the words "*fifty thousand rupees*," substitute the words "*twenty-five thousand rupees*".'

SRI K. BALASUBRAMANYA AYYAR :—"Mr. Chairman. Sir, I move the amendment standing in my name, viz.,—

'For the words "*fifty thousand rupees*," substitute the words "*twenty thousand rupees*".'

The amendments were duly seconded.

SRI K. BHASHYAM :—"Sir, I want to remove a misconception that has crept in in the speech of the Hon. Member in charge of the Bill. It is not a case of opposition to the Bill on the ground that the subordinate judiciary is either not efficient or not impartial or is incompetent. I have never suggested it nor do I do it now. What I say is the procedure prescribed by the High

[Sri K. Bhashyam]

[6th April 1955]

Court in its Original Side is really calculated to ensure a speedy and efficient dispensation of justice. It is not so in the mofussil. As it is, the mofussil judges work at a disadvantage of bad system. I shall give an instance. Let us take the question of listed documents. After issues are allowed and as the court proceeds listed documents are filed and as the trial proceeds the court goes through these as a matter of course. In the mufassal, the lists are allowed to be added to from time to time. After the closure of evidence itself, some evidence was allowed. All these are irregularities in procedure. Such irregularities or relaxations are not really allowed in the Original Side at all. The Hon. the Minister need not give any credit to lawyers. But I do not want any credit. A lawyer in the mofussil is as good and competent as a lawyer in the metropolis. But the lawyer in the City conducts his case far more efficiently than the lawyer in the mufassal because the litigants in the mufassal are somewhat lax and are not as intelligent as City litigants. They do not keep documents."

MR. CHAIRMAN :—" Does the hon. Member speak on his amendment? "

* SRI K. BHASHYAM :—" Sir, I want this point to be thrashed out completely. I am really trying to convince persons who are not Members of the Council and the large number of litigants about my stand so that they may be able to judge whether my case is right or the case of the Government is right. If you think, Sir, this thing can be hurried about like this, then I am entirely in your hands."

MR. CHAIRMAN :—" I am not hurrying. The hon. Member will kindly speak on the amendment."

* SRI K. BHASHYAM :—" I am trying to place these facts before the House, not because I have no good opinion about the integrity, capacity or impartiality of the men in the mofussil, but because of difference in procedure. So far as the mufassal courts are concerned, the litigants are lax because the judges are lax and the procedure is lax. Vakils and advocates in the lower courts suffer under this disability that the litigants are not as prompt and as clever as litigants in the City. I want to remove one misconception from the mind of the Hon. the Minister for Finance. I have as high an opinion of the subordinate judiciary as he has and I pay my tribute for the work it is doing. If at all there is no complaint against any Department of the Government, it is only against the Judicial Department. That is a matter for the Government to be proud of."

" Coming to the amendment proper, it may be asked why it should be raised to 25,000 and not to 50,000 rupees. I say it should be gradual. Then only it will be better. First let us have 25,000 rupees and then 50,000 rupees ultimately. To cite the analogy of Bombay and Calcutta here will not avail. Do the

6th April 1955] [Sri K. Bhashyam]

Government know the expenditure the litigants in Bombay are put to? The appellate side practice in Bombay is nothing compared to the practice on the Original Side. The parallel of the High Court in Bombay or Calcutta will not help us so far as the Madras High Court is concerned. Therefore, let us not merely be sentimental. Let us have an efficient and swift administration of justice. Let things remain where they are, if my amendment cannot be accepted. After all, if the mufassal machinery is not working properly, let it be toned up. Let not the machinery here be brought down to the level of the mufassal machinery."

* DR. V. K. JOHN :—" Sir, I second this amendment. I should point out that, while the hon. the Mover of this Bill is not satisfied with our arguments, I am also not satisfied with his arguments. I quite agree that mufassal towns have become cities and there is plenty of commerce there now. That is one reason for the transfer of cases to the High Court from the mufassal and have Criminal judges. But I could never agree that a High Court judge is not superior to a District judge and that a District judge is not superior to a subordinate judge. The trial by a High Court judge is certainly much more satisfactorily conducted than one by either the District judge or the subordinate judge. So also, an appeal to the Supreme Court is heard much better and more satisfactorily than an appeal heard by the High Court. Eminent lawyers and eminent judges appointed to the Supreme Court and the High Courts certainly do better than those who are members of the subordinate judiciary. I plead that the cases should be tried by a judge who can give the greatest satisfaction to the litigant. There is no reason why this provision should be there even from the point of view of expenditure and delay. I oppose the existing provision and support the amendment which seeks to reduce the jurisdiction from Rs. 50,000 to Rs. 25,000."

THE HON. SRI C. SUBRAMANIAM :—" Sir, I am sorry, I am unable to accept this amendment, which seeks to reduce the jurisdiction of the court from 50,000 to 25,000 rupees. I do agree that it will be desirable to have High Court judges everywhere instead of District munsifs, subordinate judges and District Judges. But High Court judges have to be paid more than Rs. 3,000. We have to cut our coat according to the cloth. Perhaps, if everybody is as rich as Dr. John, then we can consider it. We have to take into account the entire State. There is no question of any vested interests involved here to require that only High Court judges can try such cases. If the mufassal judiciary is to be toned up, it does not mean that we should have a different system for the mufassal and that persons living in the City, particularly, litigants living in the City should have a more efficient system of judiciary. Therefore, it is impossible that all cases should be tried by High Court judges who have to be paid more than Rs. 3,000 as salary each. I am sorry that as a person representing the State as a whole, I am unable to agree to the present amendment."

[6th April 1955]

MR. CHAIRMAN :—“ The question is—

‘ For the words “ fifty thousand rupees ”, substitute the words “ Twenty-five thousand rupees ”.’ ”

The amendment was lost.

MR. CHAIRMAN :—“ The question is—

‘ For the words “ fifty thousand rupees ”, substitute the words “ twenty thousand rupees ”.’ ”

The amendment was lost.

Clause 2 was put and carried.

Clauses 3, 4 and 5 were put and carried.

Clause 6.

* SRI K. BHASHYAM :—“ In view of the explanation given by the Hon. Minister, I am not moving my amendment, Sir.”

Clause 6 was put and carried.

Clause 7 was put and carried.

Clause 8.

MR. CHAIRMAN :—“ Mr. K. Balasubramania Ayyar’s amendment is a negative amendment which is out of order. He cannot move it. Mr. Bhashyam can move his amendment.”

* SRI K. BHASHYAM :—“ Sir, I move the amendment standing in my name, viz.,—

‘ In sub-clause (1), add the following at the end :—

“ except such suits in which issues have been framed ”.

In the alternative

In sub-clause (1), add the following words at the end :—

“ except suits which are part heard.” ’

I am not moving the third part of my amendment, viz., ‘ omit sub-clause (2) of clause 8 ’.

“ Sir, this clause 8 is the most difficult clause. I want Government to take a liberal view in this matter. I am making an appeal to them to take a liberal view. This measure is not an urgent measure. It isn’t as if any amendments could not be passed in this House and placed before the Assembly for its concurrence. We have plenty of time. This will come into force only when a notification is made by Government. Therefore, the amendment, which says that automatic transfer of *all* pending suits to the City Civil Court may be stopped, is a reasonable one which could be

6th April 1955]

[Sri K. Bhashyam]

accepted. My amendment says that all suits except those in which issues have been framed and suits which are part-heard, may be transferred. Automatic transfer of all pending suits to the City Civil Court will work great hardship on the litigants. There are number of cases wherein persons have been briefed. Fees have been paid. In some cases, issues have been framed. Documents have been filed. In some cases, judgment has been reserved. In some cases, execution is pending. Some are pending before the Master. That is why I say if at one stroke you say that there should be automatic transfer of all these cases to the City Civil Court, it will cause great hardship to the litigants, to the lawyers, etc. That is why I say retrospective effect should not be given. Two things may at least be considered. The Chief Justice may be given discretion that in cases wherein it is to the convenience of the parties concerned in the case, those cases may be transferred to the City Civil Court. That was what was done when the partition took place and it has worked well. Secondly, let them leave the present cases, where they are. Again so far as appeals are concerned, wherein the value is more than Rs. 5,000 of course they would be heard by the High Court. But what about those cases whose pecuniary jurisdiction is less than Rs. 5,000? Are they to be decided by the Principal Judge of the City Civil Court? Persons have filed their cases of appeal in the High Court? Persons have filed their cases of appeal in the High Court, thinking that the lower Court's decision may be rectified. If we say that there would be automatic transfer of all those cases filed in the High Court, then it would cause great inconvenience to the parties concerned. I appeal to the Hon. Law Minister to take all these facts into consideration and take a liberal view in this matter and accept my amendment."

The amendment was duly seconded.

SRI K. BALASUBRAMANYA AYYAR:—"Mr. Chairman, Sir, we say a suit is pending till the judgment is delivered. Until the judgment is delivered, the suit is said to be pending. The automatic transfer of these cases to the City Civil Court will cause great hardship to the litigants and to the lawyer profession. Day by day cases are coming. When the first hearing is made, the case (original side) is continued every day. The Judge forms an impression on the evidences let in that case. That impression which the Judge has formed, is something which is of great fundamental value to the appellant. If we say that those cases would stand automatically transferred, then that impression which the Judge who is hearing the case has formed and which is of great value to the appellant, is lost to the appellant. Therefore this automatic transfer will create great inconvenience to the litigants. Therefore, it is better not to interfere with pending suits. Let them say all further suits which are instituted and whose pecuniary jurisdiction falls below Rs. 50,000 may be heard by the City Civil Court. Let not the present pending suits be interfered with. Not only will it cause inconvenience to the litigants, but will create difficulties for the lawyers also. Some lawyer would have been engaged for a case. Fees would have been paid to him. If the case is transferred, he

[Sri K. Balasubramanya Ayyar] [6th April 1955]

may not be able to argue his case in the Court to which it has been transferred. The litigant has to engage somebody else to argue the case. That means he has to pay additional fees to the lawyer. All these difficulties are there. The lawyer profession has also got to be consulted, in this matter. The Hon. Law Minister has said that the Judges are satisfied with the present measure. I say it is not enough if the Judges alone are satisfied: The convenience of the clients and the advocates have got to be looked into. We have placed before the Hon. Minister the difficulties of the clients and the advocates. I do hope that himself being a lawyer, the Hon. Minister for Law would take a sympathetic view so far as this matter is concerned. I do hope that he would see to it that only further suits whose pecuniary jurisdiction falls below Rs. 50,000 would be tried in the City Civil Court and that for all pending cases, the Chief Justice may be given the discretion that cases which have been partly heard by a Judge of the High Court, may be disposed of in the High Court itself. Let him take into account the convenience of the litigants and see to it that only those cases, wherein no difficulty would be caused to the litigants by the transfer, are transferred to the City Civil Court."

* DR. V. K. JOHN :—" I as a lawyer and all other lawyers welcome the statement of the Hon. Mover of this Bill, that Government are trying to have all the Courts situated in the High Court Compound itself. That will be necessary and essential when this Bill is passed. My two lawyer friends, viz., Mr. Bhashyam and Mr. Balasubramanya Ayyar have pointed out that there might be cases pending in the High Court wherein High Court lawyers would have been engaged. If those cases are automatically transferred, then it may not always be possible for that same lawyer to argue the case in the Court to which the case has been transferred. Then the client has got to engage some other lawyer to argue the case in the Court to which the case has been transferred. That means additional expense to him. If all the Courts are to be located in the High Court compound, such a difficulty may not arise. I want to make an appeal to the Hon. Law Minister and I hope my appeal would not be made in vain. It is better to omit this clause 8. It would be better to instruct the High Court to transfer such of those cases, which in the opinion of the High Court are fit enough to be transferred to the City Civil Court. Even as it is under section 24 of the Civil Procedure Code, which I read out earlier, the High Court can *suo motu* transfer suits, appeals and other proceedings to any Court of competent jurisdiction. Even now such a provision is there in the Civil Procedure Code. Clause 8 says that all cases pending in the High Court and whose pecuniary jurisdiction falls below Rs. 50,000 would be transferred to the City Civil Court. When a provision is already there in the Civil Procedure Code, I do not think clause 8 is necessary. I know that no amendments to this clause have been accepted in the Assembly and I do know that the present amendment to clause 8 will not be accepted. Therefore after hearing us, Government could bring an Amending Bill to delete clause 8. There was no such clause 8 at all, when

6th April 1955]

[Dr. V. K. John]

the pecuniary jurisdiction of the City Civil Court was raised from Rs. 2,500 to Rs. 10,000. In actual practice, there will be lot of difficulties if this clause is allowed to stand as it is. If the Government had put 'notified' it would have been all right. This has not been done. So, I request that the Government may follow the same procedure as adopted in the case of the Andhra State Act. In view of the difficulties that are likely to be experienced, I make an earnest appeal even at this stage that clause 8 may be deleted or may be so modified as to see that no injustice is done to anybody."

5-20
p.m.

THE HON. SRI C. SUBRAMANIAM :—" Sir, I do appreciate certain difficulties pointed out by hon. Members Sri Bhashyam, Sri Balasubramanya Ayyar and Dr. John. They have said that, if certain cases are transferred to the City Civil Court, that would cause difficulties to the litigants and to the lawyers. But, I suppose what they want is that these difficulties should not be created. If their object could be achieved by some other means, I do not see why they should oppose this clause. Clause 8, no doubt, transfers by its very provision contained in it all suits to the City Civil Court. But, as it was pointed out by Dr. John, as the High Court can transfer any suit to any other Court of competent jurisdiction, it can also withdraw any suit to its own file. We shall see that the High Court exercises its powers to withdraw certain cases so that there may not be difficulties for the lawyers or for the litigants as such by such transfers; and such cases are tried by the High Court itself. So, there will not be any difficulty with regard to it. Certainly, we shall address the High Court with regard to this matter. I hope that all those difficulties will be removed. Subject to this assurance, I hope the hon. Members will be satisfied and clause 8 will be passed."

* SRI K. BHASHYAM :—" Mr. Chairman, I only want to say this. The procedure suggested by us in respect of transfer of cases by the High Court is one thing. The Hon. Minister's suggestion with regard to the withdrawal of certain cases by the High Court to its own file is entirely a different matter. The High Court exercises its power of withdrawal only very rarely in cases of extraordinary original civil jurisdiction. This is really done only for very strong reasons. A petition and an affidavit have got to be filed before a Judge and on these only the High Court considers the question of withdrawal of any case. That is why we say that we may follow the same procedure as adopted in the case of the Andhra State Act according to which the Chief Justice was bound to go into each case, give notice to the party concerned and then pass an order. That has worked very well, both in regard to lawyers, clients and others. As all cases were not automatically transferred and as the Chief Justice went into each case, there was not much difficulty. It is only with a view to removing certain difficulties of the persons concerned, I have moved my two amendments, viz., the first amendment for the addition of the words 'except such suits in which issues have been framed' and the second amendment, which I have

[Sri K. Bhashyam]

[6th April 1955]

given as an alternative, for the addition of the words 'except suits which are part-heard'. I request that these two amendments may be taken up separately."

THE HON. SRI C. SUBRAMANIAM :—"Sir, I know hon. Member Sri Bhashyam is a very obstinate fighter in any cause which he takes up. I suppose he will look at the result rather than the procedure adopted since I have given an assurance that all those difficulties pointed out by him and other hon. Members will be taken into account. If all those difficulties are real, the High Court will certainly exercise its power of extraordinary jurisdiction for the purpose of withdrawing the cases. The Government also will facilitate the retention of those cases on the file of the High Court itself. So, considering all these, I request the hon. Member even at this stage not to press his amendments."

SRI K. BHASHYAM :—"Sir, let the House give its verdict on the amendments moved by me."

MR. CHAIRMAN :—"The question is—

'In sub-clause (1) add the following at the end :—

"except such suits in which issues have been framed." "

The amendment was lost.

MR. CHAIRMAN :—"The question is—

'In sub-clause (1) add the following words at the end :—

"except suits which are part-heard." "

The amendment was lost.

Clause 8 was put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI C. SUBRAMANIAM :—"Sir, I move—

'That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be passed.' "

MR. CHAIRMAN :—"The question is—

'That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

MR. CHAIRMAN :—"Hon. Sri C. Subramaniam may move his next Bill."

SRI MOHAMED RAZA KHAN :—"Sir, we may adjourn now and take up the other Bills to-morrow."

THE HON. SRI C. SUBRAMANIAM :—"Sir, anyhow the business before the House has to be finished by to-morrow. Subject to that I agree that we may rise now."

6th April 1955]

MR. CHAIRMAN :—" Provided the hon. Members promise not to make long speeches to-morrow, we may adjourn now."

SRI MOHAMED RAZA KHAN :—" We will co-operate, Sir."

MR. CHAIRMAN :—" Yes, the hon. Members will have to co-operate. The House will now adjourn and meet again to-morrow at 10 a.m."

The House then adjourned.

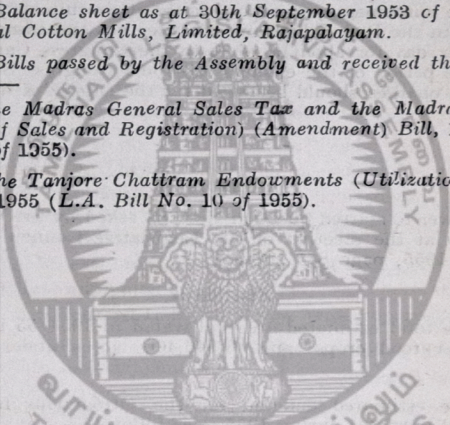
VI.—PAPERS LAID ON THE TABLE OF THE HOUSE.

a. 1. *Balance sheet as at 30th September 1953 of the Ramaraju Surgical Cotton Mills, Limited, Rajapalayam.*

b. 2. *Bills passed by the Assembly and received therefrom in the Council—*

(i) *The Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955).*

(ii) *The Tanjore Chattram Endowments (Utilization) Amendment Bill, 1955 (L.A. Bill No. 10 of 1955).*



வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

a Laid on the table on the 5th April 1955.

b Circulated by post on 2nd April 1955.

[6th April 1955]

APPENDIX I.

[Vide answer to clause (d) of starred question No. 281 asked by Sri V. Gurunandan Row at the meeting of the Legislative Council held on 6th April 1955, page 844 supra.]

Copy of G.O. Ms. No. 4183, Public Works, dated 21st December 1954.

[Water-supply—Chingleput district—Red Hills Tank—Supply of water for Avadi Congress Session—Permitted. *Reference.*—From the Special Chief Engineer, Public Works Department, No. 5492/54-F-1, dated 10th December 1954.]

In the circumstances reported the Government approve the supply from the Red Hills Tank of water not exceeding three lakhs gallons per day for about a week to the Congress Camp at Avadi during the period of the ensuing All-India Congress Session there. The usual charges should be levied for the supply of water.

APPENDIX II.

[Vide answer to starred question No. 283 asked by Sri V. V. Ramaswami at the meeting of the Legislative Council held on 6th April 1955, page 845 supra.]

Statement.

(a) The total estimated area cultivated in 1954-55 is 14,761,800 acres under food crops and 3,546,400 acres under commercial crops.

(b) The estimated demand for the nitrogenous fertilisers for agricultural purposes during 1955 is as follows:—

Ammonium Sulphate	...	...	109,000 tons.
Urea	...	...	1,300 "
Ammonium Sulpho Nitrate	...	...	1,200 "
Nitro chalk	...	...	100 "

No estimate of Phosphatic and Potassic fertilisers whose distribution is not controlled and which are sold in open market has been made.

As regards organic manures the quantity of Sesbania seed to meet the estimated demand is 400 tons to cover an area of 15 lakhs of acres both for seed purposes and as green manure. The requirements of other green manure seeds have not been estimated.

(c) There has been short supply of Ammonium Sulphate for some time during 1954, mainly on account of short fall in the production at Sindhri. With the arrival of imported stocks of Ammonium Sulphate in November 1954, the supply position

6th April 1955]

improved considerably and it is expected that the Government of India will maintain supply of stocks to this State in 1955 in accordance with the phased programme drawn up by this Government.

(d) There are intensive cultivation schemes which are in operation to achieve self-sufficiency in food. The following is a list of the principal Schemes :—

- (1) River Pumping Schemes.
- (2) Supply of oil engine pump sets to ryots on hire.
- (3) Supply of oil engines and electric motor pump sets under hire purchase system.
- (4) Supply of tractors on hire.
- (5) Supply of tractors on hire purchase system.
- (6) Tube wells with filter points.
- (7) Distribution of Ammonium Sulphate.
- (8) Distribution of green manures.
- (9) Distribution of improved paddy seeds.
- (10) Distribution of millet seeds.
- (11) Distribution of pulses seeds.
- (12) Control of pests and diseases of crops.
- (13) Crop competitions to increase acre yields.
- (14) Soil Conservation Schemes.
- (15) Public Works Department Irrigation Schemes.
- (16) Tank Improvement Scheme.
- (17) Special (Grow More Food) Minor Irrigation Programme.

As regards cotton, a Cotton Extension Scheme is in operation to make the State self-sufficient in cotton by—

- (1) extending the area and,
- (2) the use of improved seeds,
- (3) adoption of proper methods of cultivation,
- (4) application of fertilisers, and
- (5) plant protection measures.

[6th April 1955]

APPENDIX III.

[Vide answer to starred question No. 286 asked by Sri P. P. Ummer Koya (on behalf of Sri T. Purushotham) at the meeting of the Legislative Council held on 6th April 1955, page 847 *supra*.]

Resolution No. 2.—The salary of the village officers and the menials should be increased in the same proportion as the cost of living has increased over that prevailing in the year 1919.

Resolution No. 3.—Travelling allowance should be given to the village officers for their journeys in discharge of Government duties.

Resolution No. 4.—The village officers should be given the medical and educational concessions granted to all other Government servants and school-masters.

Resolution No. 5.—The practice of sending karnams for retraining in survey when once they have passed in survey test should be discontinued.

Resolution No. 6.—Village menials should be declared full-time servants as their duties are numerous.

Resolution No. 7.—A committee should be appointed to revise the village accounts in order to minimize the work of the village officers as recommended by the Salary Committee in 1919.

Resolution No. 8.—Orders issued recently for the preparation of provisional demand with particulars of survey numbers should be cancelled.

Resolution No. 9.—Salary, dearness allowance, etc., should be granted for the entire period when a village officer is in additional charge of another village.

Resolution No. 10.—Village headman should not be compelled to remit the arrears of land revenue from their own pocket even before it is collected.

Resolution No. 11.—Villages of vast area having enormous revenue and population should be bifurcated into appropriate bits and separate set of village officers and menials should be appointed for each bit.

Resolution No. 12.—It is found to be written in the Village Officers' Manual that the karnams are lower in rank than the village headman. The Tahsildar can punish the karnam but only the Revenue Divisional Officer can punish the village headman. The conference feels much for this kind of discrimination shown between the karnams and the village headman and requests the Government to treat all the village officers equally and cancel the powers of the Tahsildars and the Deputy Tahsildars to punish the karnam.

Resolution Nos. 2 to 4.—These requests have been examined by the Government already and negatived.

Resolution No. 5.—Orders have been issued that the scheme of retraining be continued in the case of karnams in estate villages taken over by the Government and that in ryotwari areas such retraining be ordered only in special and stray cases where the Revenue Divisional Officer concerned considers it absolutely necessary in the interest of the administration.

Resolution Nos. 6 to 9.—These questions have been considered by the Government in consultation with the Board of Revenue and negatived.

Resolution No. 10.—It has been considered that no specific action is called for and that when any such instance is brought to notice of Collectors suitable action may be taken.

Resolution No. 11.—Regrouping of villages is done by the Board of Revenue wherever necessary. No action was considered necessary on this request.

Resolution No. 12.—The headmen and the karnam are not officers on equal status. The karnam who is entrusted with the keeping of village accounts is subordinate to the head of the village and he should help and advise the headman in his capacity of the village munsif and Magistrate. Therefore, the Government did not consider it desirable to take away the powers of Tahsildars and Deputy Tahsildars to punish karnams as these officers have better and more direct control over them.

6th April 1955]

Resolution No. 13.—The salary of the Estate Village Officers and menials should be raised to be on a par with the ryotwari area.

Resolution No. 14.—Village officers and the menials of the 'taken over' villages should be given the scale of pay given in ryotwari area from the date of taking over.

Resolution No. 15.—Commission for the collection of arrears of reduced rent relating to previous faslis also should be given.

Resolution No. 16.—The commission once given to village officers for the collection of reduced rents in estates but later recovered from them should be refunded to them and such recovery should be discontinued in future.

Resolution No. 17.—The various Government orders directing lower authorities to give proper treatment to the village officers, etc., should be carried out by the local authorities properly and promptly all over the State.

Resolution Nos. 13 and 14.—The principle behind these requests has been accepted by the Government but the question has been deferred for the present.

Resolution No. 15.—The reference 'previous faslis' is to the period from the fixation of reduced rents to the date of the Government orders sanctioning the payment of the commission. The request has been examined already and negatived. It was again re-examined recently in December 1954 and no action was considered necessary.

Resolution No. 16.—The reference here is to collection of land revenue under section 23 of the Abolition Act. The Government have issued orders as early as August 1953 that pending fixation of salaries of village officers on ryotwari level in estate villages, the recovery of overpayments should be stayed.

Resolution No. 17.—The Government did not consider any action necessary as the subordinate officers are even now doing their work promptly.

APPENDIX IV.

[Vide answer to unstarred question No. 27 asked by Sri T. M. Daivasikhamani Achariar at the meeting of the Legislative Council held on 6th April 1955, page 849 supra.]

Statement showing particulars of the articles manufactured in certain jails in the State.*

The Penitentiary, Madras—

Articles of furniture (wooden) required by the Government departments.

Stitching of hospital garments.

Tags, sealing wax, phenyle, brown covers, wax cloth, fat file boards, rattan baskets and handspun yarn.

Central Jail, Cuddalore—

One fourth of an inch and $\frac{1}{2}$ inch tape rolls, bandage cloth, gauze cloth and convict cloth.

Binding and Map mounting and stitching of convict garments.

Central Jail, Tiruchirappalli—

Articles of furniture (wooden).

Gauze and bandage cloth, convict cloth, dhories for sub-jail prisoners, korah mat, handspun yarn, alo rope and stitching of hospital garments.

* There are no Central Jails in Chingleput and Tanjore districts.

[6th April 1955]

Central Jail, Vellore—

Articles of furniture (wooden).

Bandage cloth, gauze cloth, cotton tape and convict cloth.

Ammunition boots, sandals, tapal bags, etc., for Police, Forest, Stationery and Jail departments.

Binding books.

Manufacture of brown paper covers.

Gingelly oil pressing (power) for jail consumption.

Stitching of garments to Forest, Jails, Fire Service Branch and Police departments.

Central Jail, Salem—

Articles of furniture.

Aluminium and iron utensils.

Carpets, bandage and gauze cloth, convict cloth, tapes, belting cloth and korah mat.

Book-binding.

Gingelly oil pressing (power).

2. These articles are manufactured only with the aid of convict labour except in the case of oil pressing.

3. Generally, articles are not sold to the public as the jail is unable to meet the demands of the Government departments themselves, especially, in the case of carpentry, tailoring, binding and weaving. Leather goods are prohibited from sale to the public as they are liable for excise duty.

4. The articles of jail manufacture were not exhibited in public museums. But this year, they were exhibited in the Congress Exhibition at Madras.

5. The jail-made articles are not sold at a cost less than the market price—vide rule 988 of the Madras Prison and Reformatory Manual, Volume II. This is to avoid an unhealthy competition with local persons employed in small-scale cottage industries.

6. The aggregate cost or turnover of jail-made goods of all jails in the State during 1953-54 was approximately Rs. 32,90,840.

II

Statement showing the particulars of articles manufactured in the Senior Certified School, Chingleput, and the Junior Certified School, Tanjore.

Senior Certified School, Chingleput—

Standardized articles of furniture, towels, carpets, mats, black-smithy articles, metal work articles.

6th April 1955]

Junior Certified School, Tanjore—

Standardized articles of furniture, towels, carpets, cct-tapes and binding.

2. All the articles are manufactured by the pupils under the direction and with the aid of respective Instructors. No outside labour is employed.

3. Sales for the public are not made generally as the turnover is not adequate for public sale and as emphasis has, all along, been laid on the instructional side rather than on commercial basis. However, orders from private sources are booked and supplied. There are no agencies attached to the institutions.

4. The articles were not exhibited in public museums. But they have been exhibited in the Congress Exhibition, Madras, during 1949-50, 1952-53 and 1955 and there had been appreciable sales.

5. Prices of articles manufactured in the certified schools are fixed as per Rule 988, Part I of Madras Prison and Reformatory Manual, Volume II. Generally, the rates are higher than the market rates.

6. The aggregate cost of turnover of the articles manufactured during 1953-54 in the two Government certified schools was Rs. 17,639.

APPENDIX V.

[Vide item V (1) on page 851 supra.]

L.A. BILL No. 9 OF 1955.

(As passed by the Assembly.)

A Bill further to amend the Madras General Sales Tax Act, 1939, and to amend the Madras Tobacco (Taxation of Sales and Registration) Act, 1953.

WHEREAS it is expedient further to amend the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939), and to amend the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (Madras Act IV of 1953), for the purposes hereinafter appearing; BE it enacted in the Sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Act, 1955.

(2) It shall be deemed to have come into force on the 1st day of April 1955.

[6th April 1953]

2. *Amendment of Madras Act IX of 1939.*—In the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939):—

(i) in section 4, for the expression “manufactured tobacco as defined in the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939,” the expression “taxed tobacco as defined in section 2, clause (13), of the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (Madras Act IV of 1953)”, shall be substituted;

(ii) in section 5, after item (vi), the following items shall be added, namely:—

“(vii) the sale of cigars and cheroots at less than two annas per cigar or cheroot, and bidis, snuff, chewing tobacco or any other product manufactured from tobacco, shall be liable to tax under section 3, sub-section (1), only at the point of the first sale effected in the State of Madras by a dealer but at the rate of six pies for every rupee on his turnover;

(viii) raw tobacco, whether cured or uncured, shall be liable to tax under section 3, sub-section (1), only at the point of the first purchase effected in the State of Madras by a dealer but at the rate of six pies for every rupee on his turnover:

Provided that where a dealer who has paid tax in respect of his turnover relating to goods included in clause (vii) has also paid the tax on the purchase of raw tobacco used in the manufacture of such goods under clause (viii) he shall be entitled to a rebate to the extent of tax paid in respect of the raw tobacco so used.”

3. *Amendment of Madras Act IV of 1953.*—In the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (Madras Act IV of 1953)—

(i) in section 2, in clause (13), the words “namely, cigars, cheroots, cigarettes, cigarette, tobacco and pipe-tobacco” shall be omitted;

(ii) in section 3, for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) The State Government may, by rules made in that behalf, exempt from the operation of sub-sections (1) to (7), any class of persons who do business in tobacco other than taxed tobacco.”;

(iii) in section 4, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The rates of tax payable under sub-section (1) shall be as follows:—

(i) On cigarettes which are sold by the person taxed at less than three pies per cigarette and are to be sold at the retail point to the consumer at not more than three pies per cigarette.	Three and one-eighth per cent. of the turnover.
--	---

6th April 1955]

- (ii) On cigarettes which are sold by the person taxed at less than six pies but not less than three pies per cigarette and are to be sold at the retail point to the consumer at not more than six pies per cigarette. Ten per cent of the turnover.
- (iii) On cigarettes which are sold by the person taxed at less than nine pies but not less than six pies per cigarette and are to be sold at the retail point to the consumer at not more than nine pies per cigarette. Twenty per cent of the turnover.
- (iv) On cigarettes not falling under any of the items specified above. Thirty per cent of the turnover.
- (v) On cigars and cheroots which are sold by the person taxed at not less than two annas per cigar or cheroot. Thirty per cent of the turnover.
- (vi) On pipe tobacco or cigarette tobacco. Thirty per cent of the turnover."

I certify that this is a Money Bill.

J. SIVASHANMUGAM PILLAI,
Speaker, Madras Legislative Assembly.

APPENDIX VI.

[Vide item V (2) on page 867 supra.]

L.A. BILL No. 7 OF 1955.

(As passed by the Assembly.)

A Bill further to amend the Madras City Civil Court Act, 1892.

WHEREAS it is expedient further to amend the Madras City Civil Court Act, 1892 (Central Act VII of 1892), for the purposes hereinafter appearing;

BE it enacted in the Sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Madras City Civil Court (Amendment) Act, 1955.

(2) It shall come into force on such date as the State Government may, by notification in the *Fort St. George Gazette* appoint.

2. *Amendment of section 3-A, Central Act VII of 1892.*—In section 3-A of the Madras City Civil Court Act, 1892 (Central Act VII of 1892), hereinafter referred to as the said Act, for the words "ten thousand rupees", the words "fifty thousand rupees" shall be substituted.

[6th April 1955]

3. *Substitution of new section for section 4, Central Act VII of 1892.*—For section 4 of the said Act, the following section shall be substituted, namely :—

“ 4. *Powers of Judges of City Court.*—(1) The City Court shall consist of a Principal Judge and such number of Additional or Assistant Judges as the State Government may from time to time appoint.

(2) Subject to the provisions of section 15, each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force.

(3) The Principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.”

4. *Omission of section 6, Central Act VII of 1892.*—Section 6 of the said Act shall be omitted.

5. *Amendment of section 7, Central Act VII of 1892.*—In section 7, sub-section (2), of the said Act, the words “ the Judge or, when the Court consists of more than one Judge ” shall be omitted.

6. *Substitution of new section for section 15, Central Act VII of 1892.*—For section 15 of the said Act, the following section shall be substituted, namely :—

“ 15. *Appeals.*—(1) An appeal shall lie to the High Court from any decree or order appealable under the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), in any suit or proceeding where the amount or value of the subject-matter exceeds five thousand rupees or where the decree or order appealed from was passed by the Principal Judge or an Additional Judge.

(2) An appeal shall lie to the Principal Judge from any decree or order appealable under the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), passed by an Assistant Judge in any suit or proceeding where the amount or value of the subject-matter does not exceed five thousand rupees.

(3) A second appeal shall lie to the High Court from any decree passed by the Principal or an Additional Judge in the exercise of his appellate jurisdiction on all or any of the grounds mentioned in section 100 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

(4) Subject in other respects to the provisions of the Indian Limitation Act, 1908 (Central Act IX of 1908), the period of limitation for an appeal from a decree or order in any of the cases specified in sub-sections (1) and (3) shall be ninety days and in any of the cases specified in sub-section (2) shall be thirty days.

(5) The Principal Judge may from time to time transfer for disposal appeals preferred under sub-section (2). to any Additional Judge and may at any time withdraw such transferred appeals and dispose of them himself.”

6th April 1955]

7. *Amendment of section 18, Central Act VII of 1892.*—In section 18, sub-section (1), of the said Act, the words “ Judge of the City Court, or, when the Court consists of more than one Judge, the ” shall be omitted.

8. *Transitory provision.*—(1) All suits pending in the High Court on the date of the commencement of this Act and which would be within the cognizance of the Madras City Civil Court under the provisions of this Act shall stand transferred to the Madras City Civil Court.

(2) All appeals against decrees or orders of any Judge of the Madras City Civil Court other than the Principal Judge pending in the High Court on the date of the commencement of this Act and which would be within the cognizance of the Madras City Civil Court under the provisions of this Act shall stand transferred to the Madras City Civil Court.



